

# **EXHIBIT A**

**Legal Description and Map of Case Area**

**(5 pages)**



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### **LUMMI PENINSULA CASE AREA DESCRIPTION**

THAT PORTION OF THE LUMMI PENINSULA LYING UPLAND OF THE ORDINARY HIGH WATER MARK OF LUMMI BAY, HALE PASSAGE, PORTAGE CHANNEL AND BELLINGHAM BAY, BEING PORTIONS OF SECTIONS 1, 2, 3, 11, TOWNSHIP 37 NORTH, RANGE 1 EAST, W.M.; SECTIONS 11, 12, 13, 14, 24, 25, 26, 27, 34, 35, 36, TOWNSHIP 38 NORTH, RANGE 1 EAST, W.M.; AND SECTIONS 7, 18, 19, 30, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M., BOUND ON THE EAST BY THE WESTERLY ORDINARY HIGH WATER MARK OF KWINA SLOUGH AND SLATER SLOUGH, AND BOUND ON THE EAST AND NORTH BY THE FOLLOWING DESCRIBED LINE;

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M., AND THE NORTHERLY ORDINARY HIGH WATER MARK OF PORTAGE CHANNEL; THENCE NORTHERLY ALONG SAID ORDINARY HIGH WATER MARK OF PORTAGE CHANNEL AND BELLINGHAM BAY TO THE CONFLUENCE WITH KWINA SLOUGH; THENCE NORTHERLY ALONG THE WESTERLY ORDINARY HIGH WATER MARK OF KWINA SLOUGH TO THE CONFLUENCE WITH SLATER SLOUGH; THENCE NORTHERLY ALONG THE WESTERLY ORDINARY HIGH WATER MARK OF SLATER SLOUGH TO THE INTERSECTION OF SAID ORDINARY HIGH WATER MARK AND THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT, BEING THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 7, THENCE WESTERLY ALONG THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT;

THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, AND THE NORTH HALF OF THE NORTH HALF OF LOTS 8 AND 9 OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, EXCEPT A 2.00-ACRE PARCEL OF LAND WITHIN LOT 9 OF SECTION 7, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE ONE QUARTER SECTION LINE, 408 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 7; THENCE WEST A DISTANCE OF 178 FEET; THENCE SOUTH 290 FEET; THENCE EAST 433 FEET; THENCE NORTH 180 FEET; THENCE WEST 219 FEET TO THE WEST BOUNDARY OF THE COUNTY ROAD; THENCE IN A NORTHWESTERLY DIRECTION ALONG THE WEST SIDE OF SAID COUNTY ROAD 110 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 41.34 ACRES, MORE OR LESS, AFTER THE ABOVE EXCEPTION.

THENCE NORTHERLY ALONG THE EAST LINE, NORTHWESTERLY ALONG THE SOUTH BANK OF SMUGGLER SLOUGH, AND WESTERLY ALONG THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT;

THAT PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER LYING SOUTH AND WEST OF SMUGGLER SLOUGH IN SECTION 7, TOWNSHIP 38 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, EXCEPT THE FOLLOWING DESCRIBED PARCEL OF LAND: BEGINNING AT THE CENTER OF SECTION 7, THENCE WEST 436 FEET; THENCE NORTH TO THE SOUTH BANK OF SMUGGLER SLOUGH; THENCE SOUTHEASTLY ALONG THE SOUTH BANK OF SMUGGLER SLOUGH TO THE NORTH-SOUTH CENTER LINE OF SAID SECTION 7; THENCE SOUTH TO THE POINT OF BEGINNING, CONTAINING 4.00 ACRES, MORE OR LESS; CONTAINING 26.28 ACRES, MORE OR LESS, AFTER THE ABOVE EXCEPTIONS.

THENCE CONTINUING WESTERLY ALONG THE NORTH LINE, BEING THE NORTH LINE OF GOVERNMENT LOT 4 OF SAID SECTION 7, OF THE FOLLOWING DESCRIBED TRACT TO THE WEST LINE OF SAID SECTION 7;

THE NORTH HALF OF LOT 4, IN SECTION 7, TOWNSHIP 38 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, CONTAINING 17.18 ACRES, MORE OR LESS.

THENCE CONTINUING WESTERLY ALONG THE NORTH LINE, BEING THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12, OF THE FOLLOWING DESCRIBED TRACT TO THE SOUTHWESTERLY MARGIN OF THE LUMMI SHORE ROAD RIGHT OF WAY;

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, EXCEPT THAT PARCEL OF LAND DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 12, WITH THE SOUTHWESTERLY LINE OF LUMMI SHORE ROAD; THENCE NORTH  $49^{\circ}32'$  WEST, ALONG THE SOUTHWESTERLY LINE OF LUMMI SHORE ROAD, 451.95 FEET; THENCE SOUTH  $40^{\circ}28'$  WEST, AT RIGHT ANGLES TO THE LUMMI SHORE ROAD, 385.55 FEET TO THE SOUTH LINE OF THE SAID NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, THENCE EAST ALONG THE SOUTH LINE OF THE SAID NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, 594.06 FEET TO THE POINT OF BEGINNING, CONTAINING 2.00 ACRES, MORE OR LESS. CONTAINING 18.00 ACRES, MORE OR LESS, AFTER THE ABOVE EXCEPTION.

THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY MARGIN OF THE LUMMI SHORE ROAD RIGHT OF WAY TO THE NORTH LINE OF FOLLOWING DESCRIBED TRACT, THENCE WESTERLY ALONG THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT, TO THE EAST MARGIN OF THE HAXTON WAY RIGHT OF WAY;

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, EXCEPT A 2.00-ACRE PARCEL, MORE OR LESS, DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12; THENCE EAST 175 FEET TO THE WEST LINE OF THE COUNTY ROAD; THENCE SOUTHEAST ALONG SAID WEST LINE 375 FEET; THENCE WEST 435 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 285 FEET TO THE POINT OF BEGINNING, AND EXCEPT A 2.57-ACRE PARCEL, MORE OR LESS, DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12; THENCE EAST 175 FEET TO THE WEST LINE OF LUMMI SHORE ROAD; THENCE SOUTHEAST ALONG SAID WEST LINE 375 FEET TO THE TRUE POINT OF BEGINNING; THENCE WEST 435 FEET, MORE OR LESS, TO THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH ALONG SAID WEST LINE 208 FEET; THENCE EAST ALONG A LINE PARALLEL TO THE NORTH LINE OF THIS TRACT TO THE WEST LINE OF SAID LUMMI SHORE ROAD THENCE NORTHWEST ALONG SAID WEST LINE OF LUMMI SHORE ROAD TO THE TRUE POINT OF BEGINNING, AND EXCEPT A 3.00-ACRE PARCEL, MORE OR LESS, DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12; THENCE WEST 300 FEET; THENCE NORTH TO THE SOUTH BOUNDARY OF THE COUNTY ROAD; THENCE IN A SOUTHEASTERLY DIRECTION ALONG THE BOUNDARY OF SAID ROAD TO A POINT WHICH BEARS NORTH OF THE POINT OF BEGINNING; THENCE SOUTH TO THE POINT OF BEGINNING, CONTAINING 32.43 ACRES, MORE OR LESS, AFTER THE ABOVE THREE EXCEPTIONS.

THENCE SOUTHERLY ALONG THE EASTERLY MARGIN OF THE SAID HAXTON WAY RIGHT OF WAY TO THE INTERSECTION OF THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 12, THENCE WESTERLY ALONG THE NORTH LINE OF THE SAID SOUTH HALF OF THE NORTHWEST QUARTER TO THE WEST LINE OF THE FOLLOWING DESCRIBED TRACT; THENCE SOUTHERLY ALONG THE WEST LINE OF THE FOLLOWING DESCRIBED TRACT TO THE SOUTH LINE OF THE FOLLOWING DESCRIBED TRACT;

THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, AND THOSE PARTS OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, OF THE NORTH HALF OF THE SOUTHWEST QUARTER, AND OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: PARCEL A: BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, RUNNING THENCE EAST A DISTANCE OF 587 FEET; THENCE NORTH 1320 FEET; THENCE WEST TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE SOUTH 1320 FEET TO THE POINT OF BEGINNING, EXCEPT ROAD AND EXCEPT THAT PORTION THEREOF, IF ANY, LYING NORTH OF THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12, PARCEL B: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, RUNNING THENCE EAST 513 FEET; THENCE SOUTH 660 FEET; THENCE WEST 1833 FEET; THENCE NORTH 660 FEET; THENCE EAST 1320 FEET TO THE POINT OF BEGINNING, EXCEPT ROAD AND EXCEPT THAT PORTION THEREOF, IF ANY, LYING WEST OF THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, SAID TOWNSHIP AND RANGE, AND SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 11, AND SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12, PARCEL C: BEGINNING AT A POINT 587 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, RUNNING THENCE SOUTH 2640 FEET; THENCE EAST 2053 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER.

THENCE WESTERLY ALONG THE NORTH LINE OF THE FOLLOWING DESCRIBED TRACT TO THE WEST LINE OF SAID SECTION 12; THENCE SOUTHERLY ALONG THE WEST LINE, BEING THE WEST LINE OF SAID SECTION 12, OF THE FOLLOWING DESCRIBED TRACT;

THAT PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, THENCE RUNNING SOUTH A DISTANCE OF 660.0 TO POINT OF BEGINNING, THENCE EAST 587.0 FEET, THENCE SOUTH 660.0 FEET, THENCE WEST 587.0 FEET THENCE, NORTH 660.0 FEET TO THE PLACE OF BEGINNING CONTAINING 8.90 ACRES, MORE OR LESS.

THENCE CONTINUING SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 12 TO THE INTERSECTION OF THE WEST LINE OF SAID SECTION 12 AND THE SOUTH MARGIN OF THE KWINA ROAD RIGHT OF WAY;

THENCE WESTERLY ALONG THE SOUTH MARGIN OF THE KWINA ROAD RIGHT OF WAY TO THE WEST LINE, BEING THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 11, OF THE FOLLOWING DESCRIBED TRACT;

THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, AND THOSE PARTS OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, OF THE NORTH HALF OF THE SOUTHWEST QUARTER, AND OF THE

SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: PARCEL A: BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, RUNNING THENCE EAST A DISTANCE OF 587 FEET; THENCE NORTH 1320 FEET; THENCE WEST TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE SOUTH 1320 FEET TO THE POINT OF BEGINNING, EXCEPT ROAD AND EXCEPT THAT PORTION THEREOF, IF ANY, LYING NORTH OF THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12,

PARCEL B: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, RUNNING THENCE EAST 513 FEET; THENCE SOUTH 660 FEET; THENCE WEST 1833 FEET; THENCE NORTH 660 FEET; THENCE EAST 1320 FEET TO THE POINT OF BEGINNING, EXCEPT ROAD AND EXCEPT THAT PORTION THEREOF, IF ANY, LYING WEST OF THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, SAID TOWNSHIP AND RANGE, AND SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 11, AND SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12,

PARCEL C: BEGINNING AT A POINT 587 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, RUNNING THENCE SOUTH 2640 FEET; THENCE EAST 2053 FEET TO THE SOUTHEAST CONER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER.

THENCE SOUTHERLY ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 11 TO THE INTERSECTION OF THE SOUTH LINE OF SAID SECTION 11 AND THE SOUTHERLY ORDINARY HIGH WATER MARK OF THE SOUTHWESTERLY RUNNING SLOUGH; THENCE SOUTHWESTERLY ALONG THE ORDINARY HIGH WATER MARK OF SAID SLOUGH, BEING THE NORTH BOUNDARY OF GOVERNMENT LOTS 1, 2, AND 5 OF SECTION 14, TOWNSHIP 38 NORTH, RANGE 1 EAST, W.M., TO THE EASTERLY HIGH WATER MARK OF LUMMI BAY.

EXCEPT THEREFROM THE ARTIFICIAL LUMMI AQUICULTURE DIKE, AND EXCEPT THEREFROM PORTAGE ISLAND LYING SOUTH OF PORTAGE POINT.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

THE ABOVE DESCRIBED AREA IS DEPICTED GRAPHICALLY ON THE ATTACHED LUMMI PENINSULA CASE AREA EXHIBIT MAP FOR FURTHER REFERENCE.





## Case Area Boundary





# EXHIBIT B

List of Signatory Parties

(3 Pages)

## LIST OF PARTIES SIGNING SETTLEMENT AGREEMENT

1. Governments:

United States of America

Lummi Nation

Washington State, Department of Ecology

Whatcom County

2. Water Associations:

Sunset Water Association

Georgia Manor Water Association

Harnden Island View Water Association

3. Private Landowners on the Case Area:

Autry, Nicole

Axtell, Steve

Barker, Ralph

Barker, Ruth

Boyd, Gerald

Boyd, Lois

Brooks, Jack

Brooks, Lois

Buizer, James

Buizer, Amonwadee

Campbell, Kay

Campbell, Stanly

Carr, Marilyn

Carr, Myron

Coghill, Albert

Coghill, Anthony

Curran, Troy (Zephyr)

Del Castillo, Humberto

Moreno, Esperanza

Demorest, Barbara



Demorest, Dennis  
Drumheller, Dorothy  
Cunningham, Nelly  
Earl, Robert  
Earl, Roberta-Wade  
Edson, Barbara  
Edson, Walter  
Enfield, Paul  
Enfield, Mary  
Fernandez, Bernard  
Higginson, Lesli  
Guterrez, Eva  
Guterrez, Robert  
Hahney, Cheryl  
Hahney, Thomas  
Handy, Kenneth  
Jackson, Nancy  
Hinshaw, Richard  
Hinshaw, Margaret  
Hoffmann, Sue  
Hoffmann, John  
Huizenga, Robert  
Kandiko, Robert  
Neubauer, Karen  
Kotjan, Joanne  
Ott, Janet  
LeSage, Hui-ying  
LeSage, James  
Lowe, Jerry  
Madsen, Everett (Trustee)  
Madsen, Shirley (Trustee)  
McCartney, Justin  
Morse, Edna  
Nielsen Brothers, Inc.  
Timberline Logging, Inc.  
Nielsen, Joyce  
Oliver, Brian NM  
Oliver, Kirsten  
Olsen, Larry  
Olsen, Luella  
Osvaldik, Peter  
Osvaldik, Olga  
Reed, Jennifer  
Ring, Michael  
Schmidt, George POA

Schnobrich, Sally  
Schnobrich, William  
Shields, Cecil  
Shields, Martha  
Smith, Douglas  
Smith, Linda  
Smith, Linnea  
Smith, William  
Stocker, Randall  
Wittig, Debbra  
Temple, James  
Tracy, Leana  
Trecker Diane  
Trecker, Martreck  
Vermillion, Kevin  
Vermillion, Mary  
Bel Bay Water Assoc.  
Weber, Donald  
Weber, Kathleen  
Weilage, Kathryn  
Weilage, Mark  
Witt, Martha  
Witt, Richard  
Wright, Jennifer  
Wright, Brian



# EXHIBIT C

Parties Currently Withdrawing Groundwater  
from Ecology Allocation

( 4 Pages)

**Exhibit C: Parties Currently Withdrawing Water from the State Allocation – August 24, 2006**

#	Address	Owner Name	Primary Parcel Number	Allocation (afy)	Current Use
1	2103 LUMMI SHORE RD	Walter A. Edson	370102338008	0.39	Single Domestic
2	2107 LUMMI SHORE RD	Joanne J. Kotjan and Janet C. Ott JT	370102338017	0.39	Single Domestic
3	2109 LUMMI SHORE RD	Jennifer A. Wright	370102338026	0.39	Single Domestic
4	2115 POSTAL AVE	Bernard M. Fernandez 27% & Lesli M. Higginson 73% JT	370102306031	0.39	Single Domestic
5	2092 POSTAL AVE (aka 2117 POSTAL AVE)	Jerome L. & Marisela R. Spring	370102306036	0.39	Single Domestic
6	2120 POSTAL AVE	Edna Morse	370111271525	0.39	Single Domestic
7	2127 LUMMI SHORE RD	Robert N. Earl and Roberta A. Wade-Earl	370102341050	0.39	Single Domestic
8	2131 LUMMI SHORE RD	John Rusin (Hutzpah Holdings, LLC)	370102345055	0.39	Single Domestic
9	2131 POSTAL AVE	Dale and Angie Bartel	370102308059	0.39	Single Domestic
10	2134A POSTAL AVE	John Rusin (Hutzpah Holdings, LLC)	370102330055	0.39	Single Domestic
11	2134B POSTAL AVE	John Rusin (Hutzpah Holdings, LLC)	370102330055	0.39	Single Domestic
12	2139 LUMMI SHORE RD	Robert F. and Eva Gutierrez	370102345064	0.39	Single Domestic
13	2143 LUMMI SHORE RD	Cecil C. Shields	370102345068	0.39	Single Domestic
14	2147 LUMMI SHORE RD	Martreck C. Trecker	370102346072	0.39	Single Domestic
15	2151 LUMMI SHORE RD	Joyce A. Nielsen	370102333077	0.39	Single Domestic
16	2155 LUMMI SHORE RD	Steven S. Axtell	370102349082	0.39	Single Domestic
17	2155 POSTAL AVE	Troy D. and Leslie Leland	370102313083	0.39	Single Domestic
18	2159 LUMMI SHORE RD	Jack D. and Lois Brooks	370102343082	0.39	Single Domestic
19	2163 LUMMI SHORE RD	Michael L. Ring	370102352090	0.39	Single Domestic
20	2163 POSTAL AVE	Brett L. Randmel	370102313090	0.39	Single Domestic
21	2167 LUMMI SHORE RD	John G. and Suzanne Hoffmann	370102348095	0.39	Single Domestic
22	2171 POSTAL AVE	Brett L. Randmel	370102313098	0.39	Single Domestic
23	2175 LUMMI SHORE RD	Dorothy D. Drumheller and Nelly D. Cunningham JT	370102359105	0.39	Single Domestic
24	2179 LUMMI SHORE RD (aka 2183 LUMMI SHORE RD)	Dorothy D. Drumheller and Nelly D. Cunningham JT	370102359110 370102359118	0.39	Single Domestic
25	2191 LUMMI SHORE RD	Dorothy D. Drumheller and Nelly D. Cunningham JT	370102360123	0.39	Single Domestic



26	POSTAL AVE	Dorothy D. Drumheller and Nelly D. Cunningham JT	370102314114	0.39	Irrigation & Stockwatering
27	2195 POSTAL AVE	Randall L. Stocker and Debbra A. Wittig	370102314128	0.39	Single Domestic
28	2201 LUMMI SHORE RD	Douglas B. and Linda P. Smith	370102360136	0.39	Single Domestic
29	2205 LUMMI SHORE RD	Clifford W. and Lillian G. Whitney	370102319142	0.39	Single Domestic
30	2207 LUMMI SHORE RD	Concetta J. Blaine	370102352142	0.39	Single Domestic
31	2209 LUMMI SHORE RD	Jeffry J. and Mildred K. Clark	370102353147	0.39	Single Domestic
32	2211 LUMMI SHORE RD	Robert D. Bezona	370102352152	0.39	Single Domestic
33	2217 LUMMI SHORE RD	Robert D. Bezona	370102352156	0.39	Single Domestic
34	2219 LUMMI SHORE RD	Robert D. and Shirley M. Bezona	370102352162	0.39	Single Domestic
35	2233 LUMMI SHORE RD	Jeffry J. and Mildred K. Clark	370102369176	0.39	Single Domestic
36	2245 LUMMI SHORE RD	Myron E. and Marilyn J. Carr	370102378186	0.39	Single Domestic
37	2245A LUMMI SHORE RD	Robert A. Kandiko and Karen R. Neubauer	370102327186	0.39	Single Domestic
38	2249 LUMMI SHORE RD	D. Robert Hoover	370102351195	0.39	Single Domestic
39	2265 LUMMI SHORE RD	Wayne W. and Kimberlee S. Walker	370102352214	0.39	Single Domestic
40	2273 LUMMI SHORE RD	Alexander F. Kamkoff	370102352222	0.39	Single Domestic
41	2279 LUMMI SHORE RD	Rich D. and Daleen Weidkamp 1/6 & Fred Knutzen 4/9 & William and Sandra Knutzen 1/9 & Wayne and Roxanne Hancock 1/9 & Darrell Knutzen 1/6	370102352233	0.39	Single Domestic
42	2279 LUMMI SHORE RD	Rich D. and Daleen Weidkamp 1/6 & Fred Knutzen 4/9 & William and Sandra Knutzen 1/9 & Wayne and Roxanne Hancock 1/9 & Darrell Knutzen 1/6	370102352233	0.39	Single Domestic
43	2565 HARBOR LN	Julie and Monte R. Littleton	380125476256	0.39	Single Domestic
44	2600 SHOREWOOD LN	Christina M. Ysaguirre-Boersma	380125475166	0.39	Single Domestic
45	2636 SHOREWOOD LN	Kevin and Mary Vermillion	380125369217	0.39	Single Domestic
46	2644 SHOREWOOD LN	Jennifer A. Reed	380125355224	0.39	Single Domestic
47	SHOREWOOD LN	Jennifer A. Reed	380125362221	0.39	Single Domestic
48	2591 SHOREWOOD LN (aka 2710 SHOREWOOD LN)	E. Melvin and Carol E. Gimmaka	380125456156	0.39	Single Domestic
49	2751 #1 HAXTON WY	Ralph W. and Ruth M. Barker	380134349380	0.39	Single

		and Gulfside Mobile Home Park			Domestic
50	2751 #3 HAXTON WY	Gulfside Mobile Home Park	380134349380	0.39	Single Domestic
51	2751 #4 HAXTON WY	Gulfside Mobile Home Park	380134349380	0.39	Single Domestic
52	2751 #5 HAXTON WY	Gulfside Mobile Home Park	380134349380	0.39	Single Domestic
53	2751 #6 HAXTON WY	Gulfside Mobile Home Park	380134349380	0.39	Single Domestic
54	2751 #7 HAXTON WY	Gulfside Mobile Home Park	380134349380	0.39	Single Domestic
55	2763 HAXTON WY	Thomas M. and Cheryl Hahney	380134358399	0.39	Single Domestic
56	2937 HAXTON WY	Nicole Autry and Wayne Murphy	380127487074	0.39	Single Domestic
57	2945 HAXTON WY	Donald R. and Kathleen K. Weber	380127496080	0.39	Single Domestic
58	2945 HAXTON WY	Donald R. and Kathleen K. Weber	380127496080	0.39	Single Domestic
59	2961 HAXTON WY	Stanley D. and Kay L. Campbell	380127504093	0.39	Single Domestic
60	2965 HAXTON WY	Brian N. M. Oliver	380127514107	0.39	Single Domestic
61	2987 HAXTON WY	Peter and Olga Osvaldik	380127537131	0.39	Single Domestic
62	2989 HAXTON WY	Paul and Mary Enfield 50% & James L. and Amonwadee Buizer 50%	380127520140	0.39	Single Domestic
63	2991 HAXTON WY	Justin McCartney	380127520145	0.39	Single Domestic
64	3001 HAXTON WY	William C. and Sally R. Schnobrich	380127538142	0.39	Single Domestic
65	3001 KELBAY AVE	Robert D. Huizenga	380125232149	0.39	Single Domestic
66	3003 HAXTON WY	Steve H. Hovander	380127543156	0.39	Single Domestic
67	3009 HAXTON WY	James E. and Hui-ying T. LeSage	380127545184	0.39	Single Domestic
68	3015 HAXTON WY	Leana G. Tracy	380127552206	0.39	Single Domestic
69	3017 HAXTON WY	Michael G. Smith & April M. Sakahara	380127558228	0.39	Single Domestic
70	3020 BAYVIEW DR	James K. Temple	380125466176	0.39	Single Domestic
71	3021 KELBAY AVE	Mark and Kathryn Weilage	380125228180	0.39	Single Domestic
72	3025 KELBAY AVE	Humberto C. Del Castillo & Esperanza M. Moreno	380125225232	0.39	Single Domestic
73	3032 HARBOR PL	Vern D. Burger	380125438207	0.39	Single Domestic
74	3060 HAXTON WY	Jeff J. and Amanda J. Annis	380126100203	0.39	Single Domestic
75	3064 BAYVIEW DR	Judy A. Berrett and William L. John	380125521241	0.39	Single Domestic



76	3273 ROBERTSON RD	James H. Burgin	380126103534	0.39	Irrigation
77	3374 ROBERTSON RD	James M. Sofie	380123223099	0.39	Single Domestic
78	3396 ROBERTSON RD	Everett L. and Shirley D. Madsen Revocable Trust	380123222127	0.39	Single Domestic
79	3419 LENA RD	Paula L. Casey	380134413039	0.39	Single Domestic
80	3635 HAXTON WY	Troy Curran - Zephyr Investments	380123399474	0.39	Single Domestic
81	3635 HAXTON WY	Troy Curran - Zephyr Investments	380123399474	0.39	Irrigation & Stockwatering
82	3769 HAXTON WY	Thomas K. Thrall Estate	380114374104	0.39	Single Domestic
		Harnden Island Water Assn.		4.29	Multiple Domestic
		Sunset Water Assn.		35.0	Municipal
		Georgia Manor Water Assn.		20.0	Municipal
		Bert Ooms Certificate (Leeward/Northgate)		7.0	Multiple Domestic

# EXHIBIT D

List of Well Registrations  
from Ecology Allocation

( 3 Pages)



**Exhibit D – List of Well Registrations from State Allocation – August 24, 2006**

#	Application Number	Priority Date	Time	Owner Name	Parcel Number	Purpose of Use
1	3791 HAXTON WY			Douglas D. Hughes	380114383126	Single Domestic
2	3791 HAXTON WY			Douglas D. Hughes	380114383126	Single Domestic
3	2955 LEEWARD WY			David E. and Ruth L. Snead	380127478067	Single Domestic
4	G1-28303	10/7/2005	3:00 PM	Leana Tracy	380127553197	Single Domestic
5	G1-28305	10/7/2005	3:00 PM	Jerry Lowe	380125199114	Single Domestic
6	G1-28306	10/7/2005	3:00 PM	Jerry Lowe	380125199114	Single Domestic
7	G1-28308	10/7/2005	3:00 PM	Richard Schmidt	380124458068	Single Domestic
8	G1-28310	10/7/2005	3:00 PM	Richard Schmidt	380219086084	Single Domestic
9	G1-28311	10/7/2005	3:00 PM	Richard Schmidt	380219086084	Single Domestic
10	G1-28312	10/7/2005	3:00 PM	Richard Schmidt	380219086084	Single Domestic
11	G1-28313	10/7/2005	3:00 PM	Kenneth & Dorothy Handy and N. Jackson	380219244207	Single Domestic
12	G1-28314	10/7/2005	3:00 PM	Kenneth & Dorothy Handy and N. Jackson	380219244207	Single Domestic
13	G1-28315	10/7/2005	3:00 PM	James Temple	380125481179 380125485185	Single Domestic
14	G1-28316	10/7/2005	3:00 PM	James Temple	380114372040	Single Domestic
15	G1-28318	10/7/2005	3:00 PM	Dennis & Barbara Demorest	380134391527	Single Domestic
16	G1-28319	10/7/2005	3:00 PM	Joyce Nielsen	370102348077	Single Domestic
17	G1-28320	10/7/2005	3:00 PM	Cecil & Martha Shields	370102222064	Single Domestic
18	G1-28322	10/7/2005	3:00 PM	Gerald Boyd	380126023203	Single Domestic
19	G1-28323	10/7/2005	3:00 PM	Gerald Boyd	380126023203	Single Domestic
20	G1-28324	10/7/2005	3:00 PM	Gerald Boyd	380126023203	Single Domestic
21	G1-28325	10/7/2005	3:00 PM	Gerald Boyd	380126023203	Single Domestic
22	G1-28326	10/7/2005	3:00 PM	Gerald Boyd	380126069146	Single Domestic
23	G1-28328	10/7/2005	3:00 PM	Dorothy Drumheller & Nancy Cunningham	370102314124	Single Domestic
24	G1-28329	10/7/2005	3:00 PM	Dorothy Drumheller & Nancy Cunningham	370102344122 370102360123	Single Domestic
25	G1-28330	10/7/2005	3:00 PM	Dorothy Drumheller & Nancy Cunningham	370102359110 370102342144 370102343118	Single Domestic

26	G1-28331	10/7/2005	3:00 PM	Dorothy Drumheller & Nancy Cunningham	370102314105 370102314110	Single Domestic
27	G1-28333	10/7/2005	3:00 PM	Robert Earl & Roberta Wade-Earl	370102327050	Single Domestic
28	G1-28334	10/7/2005	3:00 PM	Robert Earl & Roberta Wade-Earl	370102307049	Single Domestic
29	G1-28336	10/7/2005	3:00 PM	Humberto DelCastillo & Esperanza Moreno	380114430312	Single Domestic
30	G1-28337	10/7/2005	3:00 PM	Brian & Jennifer Wright	370102306026 370102306011	Single Domestic
31	G1-28339	10/7/2005	3:00 PM	Larry Olsen	370102121279	Single Domestic
32	G1-28340	10/7/2005	3:00 PM	Larry Olsen	370102150279	Single Domestic
33	G1-28341	10/7/2005	3:00 PM	Larry Olsen	370102150279	Single Domestic
34	G1-28342	10/7/2005	3:00 PM	Larry Olsen	370102112105	Single Domestic
35	G1-28343	10/7/2005	3:00 PM	Larry Olsen	370102112105	Single Domestic
36	G1-28350	10/7/2005	3:00 PM	Jennifer Reed	380125363240	Single Domestic
37	G1-28351	10/7/2005	3:00 PM	Jennifer Reed & Valerie Wiggins	380125356242	Single Domestic
38	G1-28352	10/7/2005	3:00 PM	Kevin & Mary Vermillion	380125383225 380125386231 380125391226 380125376233 380125374232	Single Domestic
39	G1-28353	10/7/2005	3:00 PM	Kevin & Mary Vermillion	380125364196 380125357200	Single Domestic
40	G1-28355	10/7/2005	3:00 PM	Richard & Martha Witt	380114344011	Single Domestic
41	G1-28358	10/7/2005	3:00 PM	Troy Curran	380124062467	Single Domestic
42	G1-28359	10/7/2005	3:00 PM	Troy Curran	380124062467	Single Domestic
43	G1-28364	10/7/2005	3:00 PM	Troy Curran (Zephyr Inv.)	380123499488	Single Domestic
44	G1-28365	10/7/2005	3:00 PM	Troy Curran (Zephyr Inv.)	380123499488	Single Domestic
45	G1-28371	10/7/2005	3:00 PM	Timberline Logging	380125167191	Single Domestic
46	G1-28372	10/7/2005	3:00 PM	Timberline Logging	380125167191	Single Domestic
47	G1-28374	10/7/2005	3:00 PM	Nielsen Brothers, Inc.	380125100200	Single Domestic
48	G1-28378	10/7/2005	3:00 PM	Timberline Logging	380125033191	Single Domestic
49	G1-28383	10/13/2005	11:45 AM	William & Linnea Smith	380134351445 380134359437	Single Domestic
50	G1-28384	10/13/2005	11:45 AM	William & Linnea Smith	380134415095	Single Domestic

51	G1-28382	10/13/2005	2:45 PM	James & Hui-ying LeSage	380127545184	Single Domestic
52	G1-28385	10/17/2005	11:45 AM	Albert B Coghill, Trustee	380134421489	Single Domestic
53	G1-28386	10/17/2005	11:45 AM	Walter Edson	370102306008 370102306012	Single Domestic
54	G1-28387	10/17/2005	11:45 AM	Walter Edson	370102338008	Single Domestic
55	G1-28388	10/19/2005	11:45 AM	Richard & Margaret Hinshaw	380123361497 380123360492	Single Domestic



# EXHIBIT E

Groundwater Applications Pending  
Before Department of Ecology

(2 Pages)

**Exhibit E – Ground Water Applications on File with Ecology in Case Area after Settlement –  
September 27, 2006**

#	Application Number	Priority Date	Time	Applicant Name	Parcel Number	Purpose of Use
1	G1-28370	10/7/2005	3:00 PM	Timberline Logging	380125167191	Single Domestic
2	G1-28309	10/7/2005	3:00 PM	Richard Schmidt	380124458068	Single Domestic
3	G1-28327	10/7/2005	3:00 PM	Gerald Boyd	380126023203	Single Domestic
4	G1-28375	10/7/2005	3:00 PM	Nielsen Brothers, Inc.	380125100200	Single Domestic
5	G1-28344	10/7/2005	3:00 PM	Larry Olsen	370102112105	Single Domestic
6	G1-28360	10/7/2005	3:00 PM	Troy Curran	380124062467	Single Domestic
7	G1-28366	10/7/2005	3:00 PM	Troy Curran (Zephyr Inv.)	380123499488	Single Domestic
8	G1-28379	10/7/2005	3:00 PM	Timberline Logging	380125033191	Single Domestic
9	G1-28376	10/7/2005	3:00 PM	Nielsen Brothers, Inc.	380125100200	Single Domestic
10	G1-28380	10/7/2005	3:00 PM	Timberline Logging	380125033191	Single Domestic
11	G1-28377	10/7/2005	3:00 PM	Nielsen Brothers, Inc.	380125100200	Single Domestic
12	G1-28381	10/7/2005	3:00 PM	Timberline Logging	380125033191	Single Domestic
13	G1-28373	10/7/2005	3:00 PM	Timberline Logging	380125167191	Single Domestic
14	G1-28338	10/7/2005	3:00 PM	Larry Olsen	370102352249	Single Domestic
15	G1-28356	10/7/2005	3:00 PM	Troy Curran (Zephyr Inv.)	380123399474	Single Domestic
16	G1-28345	10/7/2005	3:00 PM	Larry Olsen	380126118372	Single Domestic
17	G1-28357	10/7/2005	3:00 PM	Troy Curran (Zephyr Inv.)	380123399474	Single Domestic
18	G1-28317	10/7/2005	3:00 PM	Robert Kandiko & Karen Neubauer	370102327186	Single Domestic
19	G1-28361	10/7/2005	3:00 PM	Troy Curran	380124062467	Single Domestic
20	G1-28346	10/7/2005	3:00 PM	Larry Olsen	380126118372	Single Domestic
21	G1-28307	10/7/2005	3:00 PM	Douglas & Linda Smith	370102319136	Single Domestic
22	G1-28348	10/7/2005	3:00 PM	Jennifer Reed	380125355224	Single Domestic
23	G1-28354	10/7/2005	3:00 PM	Kevin & Mary Vermillion	380125369217 380125375214	Single Domestic
24	G1-28347	10/7/2005	3:00 PM	Larry Olsen	380126118372	Single Domestic
25	G1-28362	10/7/2005	3:00 PM	Troy Curran	380124062467	Single Domestic
26	G1-28304	10/7/2005	3:00 PM	Mark & Kathryn Weilage	380125228180	Single Domestic

Exhibit E  
September 27, 2006  
Page 2 of 2

27	G1-28363	10/7/2005	3:00 PM	Troy Curran	380124062467	Single Domestic
28	G1-28335	10/7/2005	3:00 PM	Justin McCartney	380127520145	Single Domestic
29	G1-28367	10/7/2005	3:00 PM	Troy Curran (Zephyr Inv.)	380123499488	Single Domestic
30	G1-28368	10/7/2005	3:00 PM	Troy Curran (Zephyr Inv.)	380123499488	Single Domestic
31	G1-28349	10/7/2005	3:00 PM	Jennifer Reed	380125362221	Single Domestic
32	G1-28332	10/7/2005	3:00 PM	Randall Stocker & Debra Wittig	370102314128	Single Domestic
33	G1-28369	10/7/2006	3:00 PM	Troy Curran (Zephyr Inv.)	380123499488	Single Domestic
34	G1-28389	10/27/2005	11:45 AM	Robert D. Bezona	370102352152 370102352162	Single Domestic
35	G1-28390	10/27/2005	11:45 AM	Robert D. Bezona	370102324176	Single Domestic
36	G1-28391	11/14/2005	11:45 AM	Richard Schmidt	380124458068	Single Domestic
37	G1-28392	11/14/2005	11:45 AM	Richard Schmidt	380124458068	Single Domestic
38	G1-28393	11/14/2005	11:45 AM	Richard Schmidt	380124458068	Single Domestic
39	G1-28394	11/14/2005	11:45 AM	Richard Schmidt	380219086084	Single Domestic
40	G1-28395	11/14/2005	11:45 AM	Richard Schmidt	380219086084	Single Domestic
41	G1-28399	12/9/2005	4:30 PM	Scott L. Kinley	380134409468	Single Domestic
42	G1-28400	12/9/2005	4:30 PM	Scott L. Kinley	380134413473	Single Domestic
43	G1-28401	12/9/2005	4:30 PM	Scott L. Kinley	380134411505	Single Domestic
44	G1-28435	5/4/2006	11:45 AM	Nechemjah Cohen	380134510036	Single Domestic
45	G1-28436	5/9/2006	11:45 AM	George & Anita Wilcox	380123359360	Single Domestic
46	G1-28441	6/2/2006	11:45 AM	Chong K. Yu	380219354360	Group Domestic
47	G1-28448	6/27/2006	11:45 AM	Anthony & Valorie Zamundio	380134444025	Single Domestic
48	G1-28449	6/27/2006	11:45 AM	Anthony & Valorie Zamundio	380134451022	Single Domestic

# EXHIBIT F

Applications for Groundwater Use  
Pending Before Lummi Nation

1 Page



**Exhibit F – Pending Ground Water Applications in Case Area Filed with the Lummi Natural Resources Department as of September 18, 2006**

#	Application Number	Application Date	Time	Applicant Name	Assignment Number or Parcel Number	Purpose of Use
1	2005-01	10/04/2005	14:30	Anita and Nik Ballinger.	53-W	Single Domestic

# EXHIBIT G

Uniform Joint Technical Requirements  
with Attachments

(49 Pages)

**Exhibit G to Settlement Agreement****Uniform Technical Requirements****APPENDIX A****ANNUAL WELL REPORT**  
**FOR SMALL WELLS (3 or fewer connections)**  
**WITHIN THE LUMMI PENINSULA CASE AREA**Date of Report: \_\_\_\_\_ (Submit to responsible regulator by  
Nov. 1 of same year)

Well Owner's Name: \_\_\_\_\_

Street Address Where Well is Located: \_\_\_\_\_

Parcel Number Well Drilled Within: \_\_\_\_\_

Date Well Drilled: \_\_\_\_\_

Ecology Unique Well ID (if applicable): \_\_\_\_\_ -

Lummi Well Number (if applicable): \_\_\_\_\_

Water Right Number (if applicable): \_\_\_\_\_

Chloride Concentration Measurement*			
Year	Month	Date	Chloride Concentration (mg/L)
	August		

\* Please attach a photocopy of the lab report.

Water Meter Measurement (as close to September 30 as possible)				
Year	Month	Date	Meter Reading	Units (gallons or cubic feet)

Number of Homes and/or Approved Uses Served:

Names of owners of other homes served: \_\_\_\_\_

Any changes in well operation during the water year (October 1 through September 30):

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Any problems with the well or meter during the water year (October 1 through September 30):: \_\_\_\_\_

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Other comments: \_\_\_\_\_

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**APPENDIX B**

**ANNUAL WELL REPORT**  
**FOR SUPPLY WELLS (more than 3 connections)**  
**WITHIN THE LUMMI PENINSULA CASE AREA**

Date of Report: \_\_\_\_\_ (Submit to responsible regulator by Nov. 1 of same year)

Well Owner's Name: \_\_\_\_\_

Street Address Where Well is Located: \_\_\_\_\_

Parcel Number Well Drilled Within: \_\_\_\_\_

Date Well Drilled: \_\_\_\_\_

Ecology Unique Well ID (if applicable): \_\_\_\_\_ - \_\_\_\_\_

Lummi Well Number (if applicable): \_\_\_\_\_

Water Right Number (if applicable): \_\_\_\_\_

The Number of Households or Equivalent Residential Units to which you currently supply water: \_\_\_\_\_

The Number of Households or Equivalent Residential Units to which you have issued service commitments but which are not currently supplied with water: \_\_\_\_\_

The Number of Households or Equivalent Residential Units which you anticipate applying for a service commitment in the coming water year: \_\_\_\_\_

The Average Daily amount of water withdrawn for delivery per household: \_\_\_\_\_

Any changes in well operation during the water year (October 1 through September 30):

\_\_\_\_\_  
\_\_\_\_\_

Any problems with the well or meter during the water year: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Other comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Chloride Concentration Measurements*			
Year	Month	Date	Chloride Concentration (mg/L)
April	December		
	April		
	August		

\* Please attach photocopies of the lab reports.

Water Meter Measurements				
Year	Month	Date	Meter Reading	Units (gallons or cubic feet)

<b>Water Meter Measurements</b>				
Year	Month	Date	Meter Reading	Units (gallons or cubic feet)
	October			
	November			
	December			
	January			
	February			
	March			
	April			
	May			
	June			
	July			
	August			
	September			

- Each monthly meter reading shall be reported to the responsible regulator by the 15<sup>th</sup> of the following month.
- Chloride lab analyses for December and April shall be submitted to the responsible regulator by the 15<sup>th</sup> of the following month.

**APPENDIX C**  
**MINIMUM STANDARDS FOR CONSTRUCTION AND MAINTENANCE OF WELLS**  
**REQUIREMENTS THAT APPLY TO ALL WELLS**

**What is the purpose of this appendix?**

- 1) These requirements establish minimum standards for construction of water wells within the boundaries of the case area.
- 2) The following are excluded from the requirements of this appendix:
  - (a) Any excavation that is not intended to withdraw ground water for agricultural, municipal, industrial, domestic, or commercial use.
  - (b) Any excavation for the purpose of obtaining or prospecting for oil, natural gas, minerals, products of mining, quarrying, inserting media to repressure oil or natural gas bearing formations, storing petroleum, natural gas, or other products.
  - (c) Injection wells regulated under provisions of the Safe Drinking Water Act.
  - (d) Infiltration or exfiltration galleries, trenches, ponds, pits, and sumps.
- 3) Those excavations excluded in subsection (2)(a) through (d) of this section shall be constructed, maintained, and decommissioned to ensure protection of the ground water resource and to prevent the contamination and waste of that resource.

**How does this appendix relate to other authorities?**

- (1) Nothing in this appendix may be construed to waive any legal requirements of other state agencies or local or tribal governmental entities relating to well construction, nor may it preclude the adoption of more stringent minimum well construction standards by local or tribal government.
- (2) Well contractors shall be familiar with all state, local, and tribal well construction requirements for their job sites, as well as those contained in this Settlement Agreement, prior to initiating construction.

**What are the Responsible Regulator's enforcement options?** The responsible regulator may impose the sanctions that are appropriate under authorities vested in them, including:



- (1) The issuance of regulatory orders;
- (2) Civil penalties; and
- (3) Criminal penalties.

**What are the general standards that apply to all water wells?**

The following minimum standards apply to all water wells constructed and decommissioned within the case area. It is the responsibility and liability of the water well operator who constructs the well, the property owner, and the water well contractor, to take whatever measures are necessary to guard against waste and contamination of the ground water resources.

- (1) It is necessary in some cases to construct and decommission wells with additional requirements beyond the minimum standards. Additional requirements may be necessary when the well is constructed or decommissioned in, or adjacent to a known, or potential source of contamination.
- (2) Nothing in these regulations limits the responsible regulator's authority to approve comparable alternative specifications for well construction as technology in the industry develops, or new and comparable methods of construction become known to the responsible regulator.

**How do I apply for a variance on a water well?**

- (1) When strict compliance with the requirements and standards of this appendix are impractical, any person may request a variance to the responsible regulator from one or more of the provisions of these Uniform Technical Requirements. The application for variance must propose a comparable alternative specification that will provide equal or greater human health and resource protection than the minimum standards. Application for a variance shall be made in writing and approved prior to the construction or decommissioning of the well.
- (2) The variance application shall contain at least the following information:
  - (a) Name, address, and phone number of the person requesting the variance;
  - (b) Address of well site;
  - (c) 1/4, 1/4, section, township, range;

- (d) The specific regulation(s) that cannot be followed;
  - (e) The comparable alternative specification;
  - (f) Justification for the request.
- (3) The variance application will be evaluated by the responsible regulator, and a response will be given within fourteen days. In a public health emergency or other exceptional circumstance, verbal notification for a variance may be given. An emergency usually consists of a well failure resulting in a dry well or an unusable well. Driller convenience does not constitute an emergency.
- (4) The emergency variance recipient must immediately follow up with a written notification to the responsible regulator so that a permanent record is made of the variance.

**What are the definitions of specific words as used in these Uniform Technical Requirements?**

- (1) "Abandoned well" means a well that is unused, unmaintained, and is in such disrepair as to be unusable.
- (2) "Access port" is a 1/2- to 2-inch tapped hole or tube equipped with a screw cap, which provides access to the inner casing, for measurement of the depth to water surface. An access port also means a removable cap.
- (3) "Annular space" is the space between the surface or outer casing and the inner casing, or the space between the wall of the drilled hole and the casing.
- (4) "Aquifer" is a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.
- (5) "Artesian well" is a well tapping an aquifer bounded above and below by confining or impermeable rock or soil layers, or rock or soil layers of distinctly lower permeability than the aquifer itself. The water will rise in the well above the point of initial penetration (above the bottom of the confining or impermeable layer overlying the aquifer). This term includes both flowing and nonflowing wells.
- (6) "Artificial gravel pack" is a mixture of gravel or sand placed in the annular space around the liner, perforated pipe, or well screen. A gravel pack is used to reduce

the movement of finer material into the well and provide lateral support to the screen in unstable formations.

- (7) "Artificial recharge" is the addition of water to an aquifer by activities of man, such as irrigation or induced infiltration from streams, or injection through wells, trenches, pits, and ponds.
- (8) "Bentonite" is a mixture of swelling clay minerals, predominantly sodium montmorillonite.
- (9) "Capped well" is a well that is not in use and has a watertight seal or cap installed on top of the casing.
- (10) "Casing" is a pipe, generally made of metal or plastic, which is installed in the bore hole to maintain the opening.
- (11) "Consolidated formation" means any geologic formation in which the earth materials have become firm and cohesive through natural rock forming processes. Such rocks commonly found in Washington include basalt, granite, sandstone, shale, conglomerate, and limestone. An uncased bore hole will normally remain open in these formations.
- (12) "Constructing a well" or "construct a well" means:
  - (a) Boring, digging, drilling, or excavating a well;
  - (b) Installing casing, sheeting, lining, or well screens, in a well; or
  - (c) Drilling a geotechnical soil boring.

"Constructing a well" or "construct a well" includes the alteration of an existing well.

- (13) "Contamination" means the presence of any harmful or deleterious substance that may pose a threat to the quality, purity, or safety of a water supply.
- (14) "Curbing" is a liner or pipe made of concrete, precast tile, or steel installed in dug wells to provide an annular space between the well bore and the liner or pipe for sealing.
- (15) "Decommissioning" means to fill or plug a well so that it will not produce water,

serve as a channel for movement of water or pollution, or allow the entry of pollutants into the well or aquifer(s).

- (16) "Dewatering well" means a cased or lined excavation or boring that is intended to withdraw or divert ground water for the purpose of facilitating construction, stabilizing a land slide, or protecting an aquifer.
- (17) "Disinfection" or "disinfecting" is the use of chlorine, or other disinfecting agent or process approved by the responsible regulator, in sufficient concentration and contact time adequate to inactivate coliform or other indicator organisms.
- (18) "Domestic water supply" is any water supply which serves a family residence(s).
- (19) "Draw down" is the measured difference between the static ground water level and the ground water level induced by pumping.
- (20) "Drilled well" is a well in which the hole is usually excavated by mechanical means such as rotary, cable tool, or auger drilling equipment.
- (21) "Driven well" is a well constructed by joining a "drive point" to a length of pipe, then driving the assembly into the ground.
- (22) "Dug well" is a well generally excavated with hand tools or by mechanical methods. The side walls may be supported by material other than standard weight steel casing.
- (23) "Filter pack" means clean, well rounded, smooth, uniform, sand or gravel, which is placed in the annulus of the well between the bore hole wall and the liner, perforated pipe, or well screen to prevent formation material from entering the well.
- (24) "Formation" means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping.
- (25) "Ground water" means all water that exists beneath the earth surface or beneath any surface water body, regardless of the geologic formation or structure in which such water stands, flows, percolates, or otherwise moves.
- (26) "Grout" is a fluid mixture of cement, bentonite, and water used to seal the annular space around or between well casings, or to decommission wells.
- (27) "Impermeable" is a descriptive term for earth materials which have a texture or structure that does not permit fluids to perceptibly move into or through its pores or

interstices.

- (28) "Liner" means any device inserted into a larger casing, screen, or bore hole as a means of maintaining the structural integrity of the well.
- (29) "Permeability" is a measure of the ease of which liquids or gas move through a porous material.
  - (a) For water, this is usually expressed in units of centimeters per second or feet per day. Hydraulic conductivity is a term for water permeability.
  - (b) Soils and synthetic liners with a water permeability of  $1 \times 10^{-7}$  cm/sec or less may be considered impermeable.
- (30) "Pollution" means the presence of matter, energy, contamination, or other alteration of the physical, chemical, or biological properties of water or land whose nature, location, or quantity produces undesired environmental effects, including but not limited to changes in aesthetics, temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substances into any waters as will or threaten to render such waters harmful, detrimental, or injurious to public health, safety, or welfare, or to cultural, spiritual, domestic, commercial, municipal, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wildlife, birds, fish, or other aquatic life.
- (31) "Pressure grouting" is a method of forcing grout into specific portions of a well for sealing purposes.
- (32) "PTFE" means polytetrafluoroethylene casing materials such as teflon. The use of the term teflon is not an endorsement for any specific PTFE product.
- (33) "Public water supply" is any water supply intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission and distribution facilities where water is furnished to any community, collection or number of individuals, available to the public for human consumption or domestic use, excluding water supplies serving one single-family residence and a system with four or fewer connections, all of which serve residences on the same farm.
- (34) "PVC" means polyvinyl chloride, a type of thermoplastic casing.
- (35) "Static water level" is the vertical distance from the surface of the ground to the water level in a well when the water level is not affected by withdrawal of ground



water.

- (36) "Temporary surface casing" is a length of casing (at least four inches larger in diameter than the nominal size of the permanent casing) which is temporarily installed during well construction to maintain the annular space.
- (37) "Test well" is a well (either cased or uncased), constructed to determine the quantity of water available for beneficial uses, identifying underlying rock formations (lithology), and to locate optimum zones to be screened or perforated. If a test well is constructed with the intent to withdraw water for beneficial use, it must be constructed in accordance with the minimum standards for water supply wells, otherwise they shall be constructed in accordance with the minimum standards for resource protection wells. A water right permit, preliminary permit, or temporary permit shall be obtained prior to constructing a test well. A "test well" is a type of "water well."
- (38) "Tremie tube" is a small diameter pipe used to place grout, filter pack material, or other well construction materials in a well.
- (39) "Turbidity" means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.
- (40) "Unconsolidated formation" means any naturally occurring, loosely cemented, or poorly consolidated earth material including such materials as uncompacted gravel, sand, silt and clay. Alluvium, soil, and overburden are terms frequently used to describe such formations.
- (41) "Water well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering or withdrawal of ground water for agricultural, municipal, industrial, domestic, or commercial use.
- (42) "Water well contractor" means any person, firm, partnership, co-partnership, corporation, association, or other entity, licensed and bonded to be engaged in the business of constructing water wells.
- (43) "Well alteration(s)" include(s): Deepening, hydrofracturing or other operations intended to increase well yields, or change the characteristics of the well. Well alteration does not include general maintenance, cleaning, sanitation, and pump replacement.
- (44) "Well completion" means that construction has progressed to a point at which the

drilling equipment has been removed from the site, or a point at which the well can be put to its intended use.

- (45) "Well driller(s)" or "driller(s)" is synonymous with "operator(s)."
- (46) "Well" means water wells, resources protection wells, instrumentation wells, dewatering wells, and geotechnical soil borings. Well does not mean an excavation made for the purpose of obtaining or prospecting for oil or natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products.

**What should I know about drilling wells that require water right permits?**

- (1) A well cannot be drilled without the well owner first obtaining a permit, certificate, or well registration from the Lummi Nation, the United States, or the Department of Ecology authorizing the drilling of the well.
- (2) The licensed operator must have a copy of the water right permit, certificate, or well registration on site at all times.
- (3) Every well shall be constructed to meet the provisions of that permit, certificate, or well registration. Provisions may include:
  - (a) Limitations on zones of completion.
  - (b) Special sealing requirements.
  - (c) Special casing and liner requirements.
  - (d) Other specific construction and testing details.

**What are the requirements regarding water well reports?**

- (1) Anyone who constructs a well is required to submit a complete report on the construction, alteration, or decommissioning of the well to the responsible regulator within thirty days after completion of a well, or after the drilling equipment has left the site.
  - (a) This applies to all water wells.
  - (b) The water well report must be made on a form provided by the responsible

regulator, or a reasonable facsimile of the form, as approved by the responsible regulator.

(2) Where applicable the water well report must include, at least, the following information:

- (a) Owner name; operator/trainee name; operator/trainee license number; contractor registration number, drilling company name;
- (b) Tax parcel number;
- (c) Well location street address;
- (d) Location of the well to at least 1/4, 1/4 section or smallest legal subdivision;
- (e) Unique well identification tag number;
- (f) Construction date;
- (g) Start notification number;
- (h) Intended use of well;
- (i) The well depth, diameter, and general specifications of each well;
- (j) Total depth of casing;
- (k) Well head elevation;
- (l) Drilling method;
- (m) Seal material, seal location and type of placement used;
- (n) Filter pack location; filter pack material used;
- (o) The thickness and character of each bed, stratum or formation penetrated by each well, including identification of each water bearing zone;

- (p) Casing gauge, diameter, stickup, type of material, and length, also of each screened interval or perforated zone in the casing;
  - (q) The tested capacity of each well in gallons per minute, and the test duration and draw down of the water level at the end of the capacity test;
  - (r) Recovery data;
  - (s) For each non-flowing well, the depth to the static water level, as measured below the land surface;
  - (t) For each flowing well, the shut-in pressure measured above the land surface, or in pounds per square inch at the land surface; and
  - (u) Such additional factual information as may be required by the responsible regulator.
- (3) The well report must show the license number and signature of the person who constructed the well. If this is an unlicensed person, the report shall show the license number and signature of the licensed operator who witnessed the drilling. Water well reports for wells constructed by trainees shall have the signature and license number of the trainee and the licensed operator.
- (4) If a well report is missing, a new report may be generated. This report shall contain all physical components of the well and report all available information in accordance with this section. The report shall be signed by the individual collecting the physical information of the well.

**Do the responsible regulators require prior notice and fees for well constructing, reconstructing, or decommissioning a water well?**

- (1) Yes. The property owner, owner's agent, or water well operator shall notify the responsible regulator of their intent to begin well construction, reconstruction-alteration, or decommissioning procedures at least seventy-two hours before starting work.
- (2) The notice of intent is submitted on forms provided by the responsible regulator and must contain the following:
- (a) Well owner name;

- (b) Well location; street address; county name, 1/4, 1/4 section, township, and range, and tax parcel number;
  - (c) Proposed use; (evidence of the well registration, permit or certificate shall be attached to the notice of intent);
  - (d) Approximate start and completion dates;
  - (e) Contractor registration number;
  - (f) Operator/trainee name and license number; and
  - (g) Drilling company name.
- (3) In an emergency, a public health emergency, or in exceptional instances, the responsible regulator may allow verbal notification, with a start card written notification follow-up and payment of fee submitted within twenty-four hours. An emergency situation may consist of a failing well, or water quality issues which could result in a public health or safety concern.
- (4) The notice must be accompanied by the following fees which apply to all newly constructed or altered wells:
- (a) The fee for one new water well, other than a dewatering well, with a top casing diameter of less than twelve inches is one hundred dollars.
  - (b) The fee for one new water well, other than a dewatering well, with a top casing diameter of twelve inches or greater is two hundred dollars.
  - (c) There is no fee for decommissioning a water well.
- (5) If drilling results in an unusable well (dry hole), there is no additional fee for a second attempt, provided:
- (a) A subsequent attempt at constructing a new well is made immediately; and
  - (b) The unusable well(s) is properly decommissioned before drilling equipment leaves the well site; and
  - (c) The responsible regulator is notified of all decommissionings; and

- (d) A well report describing the decommissioning process is submitted to the responsible regulator in accordance with this chapter.
- (6) A new notice of intent and fee shall be required on all follow-up construction after the drilling equipment has left the drill site.
- (7) A refund shall be made on any well that has not been constructed provided, a written request is made by the person who paid the fee and is submitted to the responsible regulator within twelve months from the date the notice and fee were received by the responsible regulator. A copy of the notice of intent receipt must accompany the request.

**How shall each water well be planned and constructed?** Every well must be planned and constructed so that it is:

- (1) Adapted to those geologic and ground water conditions known to exist at the well site to ensure utilization of any natural protection available;
- (2) Not a conduit for contaminating the ground water nor a means of wasting water;
- (3) Capable of yielding, where obtainable, the quantity of water necessary to satisfy the requirements the user has stated are needed and for which the well water is intended to be used.

**What are the requirements for the location of the well site and access to the well?**

- (1) The proposed water well shall be located on high ground that is not in the floodway.
- (2) It shall be protected from a one hundred year flood and from any surface or subsurface drainage capable of impairing the quality of the ground water supply.
- (3) All wells shall not be located within certain minimum distances of known or potential sources of contamination.

(a) Some examples of sources or potential sources of contamination include:

- i. Septic systems, including proposed and reserve sites under a valid septic design: Provided, That the design has been approved for installation by a health authority;



- ii. Manure, sewage, and industrial lagoons;
- iii. Landfills;
- iv. Hazardous waste sites;
- v. Sea-salt water intrusion areas;
- vi. Chemical and petroleum storage areas;
- vii. Pipelines used to convey materials with contamination potential;
- viii. Livestock barns and livestock feed lots.

(a) Minimum set-back distances for water wells other than for public water supply are:

- (i.) Five feet from any building projection. Water wells shall not be located in garages or inhabited dwellings.
- (ii.) Fifty feet from a septic tank, septic holding tank, septic containment vessel, septic pump chamber, and septic distribution box.
- (iii.) Fifty feet from building sewers, collection and nonperforated distribution lines.
- (iv.) One hundred feet from the edge of a drainfield, proposed drainfield which has been approved by a health authority, and reserve drainfield areas.
- (v.) One hundred feet from all other sources or potential sources of contamination except for solid waste landfills.
- (vi.) One thousand feet from the property boundary of a solid waste landfill.

(a) All public water supply wells shall be located by the department of health or the local and tribal health authorities, before construction begins.

(4) In siting a well, the driller shall consider:

- (a) All local, tribal and state water well construction regulations, policies, and ordinances as well as restrictions based on the associated settlement agreement;
  - (b) Permeability of the soil or rock;
  - (a) Adjacent land uses;
  - (b) Local ground water conditions; and
  - (c) End use of the well.
- (5) When a well is located in an area of known or potential contamination, the water well casing and seal shall be impervious to the contaminants.
- (6) Before construction, the water well operator should strongly emphasize to the well owner, the importance of retaining good accessibility to the well to permit future inspection, maintenance, supplementary construction, and decommissioning.

**What are the requirements for preserving the natural barriers to ground water movement between aquifers?**

- (1) In constructing a water well, care shall be taken to preserve the natural barriers to ground water movement between aquifers.
- (2) Care shall be taken to seal aquifers or strata penetrated during drilling operations which might impair water quality or result in cascading water.
- (3) Water wells may not interconnect aquifers.
- (4) All sealing must be permanent and prevent movement of surface, or ground water into the annular space between the permanent casing and the bore hole.
- (5) Sealing shall prevent the upward movement of artesian waters within the annular space around the well casing and prevent the contamination or wasting of ground water.
- (6) Sealing shall prevent the movement of ground water either upward or downward from zones that were cased off.

**What are the design and construction requirements for completing wells?**

- (1) You may complete wells with screens, perforated liners or pipe, or open bottom

completion. The well driller or designer shall advise the owner or the owner's representative of the most appropriate method of completion.

- (2) All well components must be of sufficient strength to withstand the normal forces to which they are subjected during and after construction.
- (3) Water wells must be completed in a manner which prevents the production of untreatable amounts of sand, silt, or turbid water which would render the well unusable.
- (4) Open bottom completion is appropriate where the withdrawn waters are essentially free of sand, silt and turbidity.
- (5) Perforated pipe completion is suitable for a coarse-grained, permeable aquifer where the withdrawn waters are free of sand, silt or turbidity.
- (6) Perforations above the static water level are not permitted.
- (7) In place perforations with Star, Mills knife, or similar type perforators are acceptable.
- (8) Perforated pipe liners, either saw cut, torch cut, mill slotted, or punched are acceptable.
- (9) The use of perforated casing for working casing as the hole is being drilled is prohibited, except in those cases where the contractor can, through personal experience in the particular area of drilling, attest to the sufficiency of the pre-perforated casing in all respects for the specific well being constructed.
- (10) Pipe liners may be of steel, plastic or other suitable corrosion resistant material.
- (11) All liners must be of sufficient strength to withstand normal forces exerted upon the liner material during installation and operation.
- (12) Liners may be used in a natural development or gravel packed type construction.
- (13) The installation of a liner without a gravel pack is prohibited when conditions exist that will result in excessively turbid water.
- (14) Well screens and well points must be constructed of compatible corrosion resistant material.

- (a) A neoprene, or grout seal shall be fitted to the top of the well screen assembly, if necessary.
  - (b) The bottom of the well screen shall be plugged or capped.
  - (b) The use of lead packers is prohibited.
- (15) The alignment of the permanent casing or liner shall be sufficiently plumb and straight to allow the installation of screens, liners, pumps, and pump columns without binding or having adverse affects on the operation of the installed pumping equipment.
- (a) Alignment of the well casing or bore hole shall not deviate from an alignment that would allow a twenty foot test section of pipe to be inserted to the bottom of the well without binding.
  - (b) The diameter of the test section of pipe shall be per Table 1.
  - (c) For testing alignment in casing reductions, each section shall be tested separately.

TABLE 1. Minimum Specifications for Steel Casing and Pipe

Nominal Size (in)	Outside diameter (in)	Wall thickness (in)	Weight per foot (pounds)	Test Section Outside Diameter (inches)
1.25	1.660	0.140	2.270	0.500
1.5	1.900	0.145	2.72	0.750
2.0	2.375	0.154	3.65	1.000
2.5	2.875	0.203	5.79	1.500
3.0	3.500	0.216	7.58	2.000
3.5	4.000	0.226	9.11	2.500
4.0	4.500	0.237	10.79	3.000
5.0	5.563	0.258	14.62	3.500
6.0	6.625	0.250	17.02	4.000
8.0	8.625	0.250	22.36	6.000

10	10.750	0.250	28.04	8.000
12	12.750	0.250	33.38	10.000
14	14.000	0.312	45.61	11.000
16	16.000	0.344	57.52	14.000
18	18.000	0.375	70.59	16.000
20	20.000	0.375	78.60	18.000
24	24.000	0.375	94.62	20.000
30	30.000	0.375	118.65	24.000

**What are the casing and liner requirements?**

- (1) Proper casing must be installed in all water supply wells.
- (2) The casing shall withstand normal forces which act upon it during and after installation. It shall be resistant to the corrosive effects of the surrounding formations, earth, and water.
- (3) All plastic casing for use in potable water supply wells must be manufactured to conform to National Sanitation Foundation (NSF) Standard 14-84, or the most recent revision.
- (4) Unless prior approval is obtained from the responsible regulator, materials for well casings must be either steel casing as shown in Table 1 or plastic casing as shown in Table 2.
- (5) Minimum specifications for steel casing and pipe for water wells are shown in Table 1.
- (6) Steel casing larger than twenty inches shall have a minimum wall thickness of 0.375 inches.

**STEEL CASING**

- (7) All steel casing materials must be new or, in like new condition, and be structurally sound.
  - (a) Casing that has been exposed to a contaminant shall not be used in well construction unless the contamination can be entirely removed.
  - (b) When casing lengths are joined together, they must be connected by watertight weld or screw coupled joints.

(i) Welded joints must be at least as thick as the wall thickness of the well casing and be fully penetrating.

(ii) All steel well casing shall meet or exceed the minimum American Society for Testing and Materials (ASTM) A-53 A or B specification for steel pipe.

#### PLASTIC CASING

(8) Plastic, fiberglass, PVC, SR, ABS, or other type of nonmetallic well casing must be manufactured and installed to conform with ANSI/ASTM F 480-81, Standard Dimension Ratio (SDR) 21 or the most recent revision.

(a) SDR is calculated by dividing the outside diameter of the pipe by the wall thickness.

(b) SDR 21 is the minimum requirement; higher pressure rated pipe may be used.

(c) All plastic casing must be installed only in an oversized drill hole without driving. The oversized hole must be a diameter of at least 4 inches larger than the outside diameter of the plastic casing or coupling hubs, whichever is larger.

(d) All plastic casing must be new or, in like new condition and clearly marked by the manufacturer showing nominal size, type of plastic material, SDR, ASTM designation, and have a National Sanitation Foundation (NSF) seal of approval for use in potable water supplies.

(e) Casing that has been exposed to a contaminant shall not be used in well construction unless the construction can be entirely removed.

(f) Plastic casing joints must be watertight.

(i) Either "bell" type, threaded joints, or coupling hubs are approved.

(ii) Hub couplings must be of materials meeting the specifications for plastic casings as stipulated in subsection (2) of this section.

(iii) If joints are secured with solvent cement, it must be done in accordance with manufacturer's directions.



(g) Table 2 is the manufacturer's recommendations for specifications of plastic casing.

TABLE 2. Minimum Specifications for Plastic Casing

Nominal Casing Diameter (inches)	Minimum Thickness (inches)	SDR
2.0	0.13321	21
2.5	0.13721	21
3.0	0.16721	21
3.5	0.19021	21
4.0	0.21421	21
4.5	0.23621	21
5.0	0.26521	21
6.0	0.31621	21
8.0	0.41021	21
10.0	0.51121	21
12.0	0.60621	21

#### LINER PIPE

(9) Liner pipe must consist of steel, in new or like new condition, free of pits or breaks; or polyvinyl chloride (PVC), CPVC, type 1120, with SDR 21 (Class 200) or greater wall thickness. All PVC must be clearly marked to identify the type, class, and SDR.

(a) Liner pipe must be of sufficient strength to withstand breakage or collapse when the well is pumped and meet ASTM potable water standards.

(b) When installed, liner pipe shall extend or telescope at least two feet into the lower end of the well casing. If more than one string of liner pipe is installed, each string shall extend or telescope at least eight feet into the adjacent larger diameter liner pipe.

(c) Liner pipe may not be permanently fixed to a well casing below land surface.

#### CONCRETE CURBING

- (1) The concrete used to make curbing must consist of clean, hard and durable aggregate with not less than five sacks (ninety-four pounds per sack) of portland cement per cubic yard of concrete.
  - (a) The maximum diameter of aggregate particles may not exceed 1 1/2 inches, but in any case may not exceed 1/5 the minimum width of the casing thickness.
  - (b) The ratio of coarse aggregate to fine aggregate (passing No. 4 U.S. Standard Sieve) must be approximately 1 1/2 to 1 by volume, but in any case, may not exceed 2 to 1 nor be less than 1 to 2.
- (1) The curbing shall be at least six inches thick and free of voids. The walls shall be poured in one continuous operation.
- (2) When concrete tile is used to line a well, the combined total wall thickness and seal shall be a minimum of six inches.

**What are the recommended well diameters?**

TABLE 3. Recommended Well Diameters

Anticipated well yield in GPM	Nominal size of pump bowls in inches	Optimum size of well casing in inches
Less than 100	4	6 ID
75 to 175	5	8 ID
150 to 350	6	10 ID
300 to 700	8	12 ID
500 to 1000	10	14 OD
800 to 1800	12	16 OD
1200 to 3000	14	20 OD
2000 to 2800	16	24 OD
3000 to 6000	20	30 OD

**What are the standards for sealing materials?**

(1) Bentonite sealant:

- (a) Bentonite used to prepare slurries for sealing, or decommissioning shall be specifically designed for this purpose. At no time shall grout slurry contain

materials that are toxic, polluting, develop odor or color changes, or serve as a micro-bacterial nutrient. All bentonite slurries shall be prepared and installed according to the manufacturer's instructions. All additives must be certified by a recognized certification authority such as NSF. Active solids content (bentonite) shall be twenty percent by weight or greater in all bentonite slurries. The active solids shall be checked by using the following formula:

Weight of bentonite (lbs.) X 100 = % solids

Weight of bentonite (lbs.) + (gallons of water x 8.33 lbs./gal)

Example: 105 lbs. of bentonite X 100 = 20% solids

105 lbs. bentonite + (50 gallons of water x 8.33 lbs./gal)

- (b) Unhydrated bentonite--pelletized, granulated, powder, or chip bentonite may be used in the construction of seals or in decommissioning of wells. The bentonite material shall be specifically designed for sealing or decommissioning and be within the industry tolerances for dry western sodium bentonite. Polymer additives must be designed and manufactured to meet industry standards to be nondegrading and must not act as a medium which will promote growth of micro-organisms. All unhydrated bentonite used for sealing or decommissioning must be free of organic polymers. Placement of bentonite shall conform to the manufacturer's specifications and result in a seal free of voids or bridges.

(2) Cement sealants:

- (c) Neat cement consists of either portland cement types I, II, III, or high-alumina cement mixed with not more than six gallons of potable water per sack of cement (ninety-four pounds per sack).
- (d) Neat cement grout consists of neat cement with up to five percent bentonite clay added, by dry weight of the bentonite. Bentonite is added to improve flow qualities and compensate for shrinkage.
- (e) Concrete sealants consist of clean, hard and durable aggregate with not less than five sacks (ninety-four pounds per sack) of portland cement per cubic yard of concrete sealant.
  - (i) The maximum diameter of aggregate particles may not exceed 1 1/2 inches, but in any case may not exceed 1/5 the minimum width of the casing

thickness.

- (ii) The ratio of coarse aggregate to fine aggregate (passing No. 4 U.S. Standard Sieve) must be approximately 1 1/2 to 1 by volume, but in any case, may not exceed 2 to 1 nor be less than 1 to 2.
  - (f) Expanding agents, such as aluminum powder, may be used at a rate not exceeding 0.075 ounce (1 level teaspoon) per sack (ninety-four pounds per sack) of dry cement. The powder may not contain polishing agents. High-alumina cement and portland cement of any type must not be mixed together.
- (3) Sealing methods:
- (a) When neat cement or neat cement grout is used in sealing, it shall be placed seventy-two hours before additional drilling takes place, unless special additives are mixed with the neat cement or neat cement grout that cause it to set in a shorter period of time.
  - (b) All hydrated sealing materials shall be placed by tremmying the mixture from the bottom of the annular space to the surface in one continuous operation.
- (4) This section may not preclude the use of new sealant materials which have been approved by the responsible regulators.

**What are the standards for surface seals?**

- (1) All water wells constructed shall have a surface seal which seals the annular space between the bore hole and the permanent surface casing.
  - (a) The seal shall be constructed to prevent surface contaminants from reaching the ground water.
  - (b) The surface seal must have a minimum diameter of four inches larger than the nominal size of the surface casing, to include the outside diameter of the bell, in bell and hub couplings.
  - (c) The surface seal must extend from land surface to a minimum depth of eighteen feet. Except, when the minimum surface seal requirements for driven, jetted, and some dug wells are less than eighteen feet. See the appropriate section for these wells for a detailed description of their sealing requirements.
- (1) Sealing material must be placed in an open annular space that is a minimum of four

inches greater in diameter than the nominal size of the permanent casing.

- (2) The completed surface seal must fully surround the permanent casing, must be evenly distributed, free of voids, and extend to undisturbed or recompact soil.
- (3) After the permanent casing has been set in final position, the annular space shall be filled to land surface with bentonite or cement grout or neat cement. Leaving voids for future installation of equipment such as a pitless adapter is prohibited.
- (4) A temporary casing with a minimum length of eighteen feet and a minimum nominal diameter of four inches greater than the permanent casing shall be used in all unconsolidated formations such as in gravels, sands, or other unstable conditions when the use of drilling fluid or other means of keeping the bore hole open are not employed.
- (5) Whenever reconstruction involves permanent surface casing movement; or the existing surface seal is damaged; or a surface seal never existed; the driller shall repair, replace, or install a minimum of eighteen feet of surface seal around the permanent casing.

**What are the requirements for formation sealing?**

- (1) Unconsolidated formation sealing - Without significant clay beds or other confining formations - Drilled wells that penetrate an aquifer overlain by unconsolidated formations such as sand and gravel without significant clay beds (at least six feet thick) or other confining formations shall be sealed in accordance with the surface sealing requirements of the previous section and shown in Figure 1.
- (2) Unconsolidated formation sealing - With significant clay beds or other significant confining formations - Drilled wells that penetrate an aquifer overlain by clay or other confining formations that are at least six feet thick, shall be sealed to prevent movement of water or contamination in the annular space between the permanent casing and the clay or other confining formation(s). One of the following methods shall be used to seal the annular space:
  - (a) A drill hole at least four inches greater in diameter than the nominal size of the permanent well casing shall extend from the land surface into the clay bed or other confining formation located directly above the aquifer to be developed. The annular space shall be filled with bentonite (slurry or unhydrated), cement grout, or neat cement to form a watertight seal between the casing and all significant confining formations encountered during drilling. If bentonite slurry, cement grout, or neat cement is used to seal the annular space it must be placed by

either pumping or tremmying the seal material from the lowest clay bed or other confining formation of significance encountered, to land surface. The drill hole shall be kept open through the use of a temporary casing or any other drilling method that stabilizes the bore hole wall. See Figure 1.

- (b) An upper drill hole at least four inches greater in diameter than the nominal size of the permanent well casing shall extend to a minimum of eighteen feet from land surface. A temporary casing or other means of maintaining an open bore hole shall be utilized. All temporary casing will have an outside diameter of a minimum of four inches larger than the permanent casing (for example, a ten-inch temporary casing for a six-inch permanent casing). The upper drill hole shall always contain a minimum of nine feet of sealant throughout the advancement of the permanent casing. Except, if the temporary casing is removed or not utilized, the upper drill hole shall be kept full of sealant. See Figure 1.
- (3) Consolidated formations - In drilled wells that penetrate an aquifer, either within or overlain by a consolidated formation, sealing of the casing shall conform with one of the following procedures.
- (a) Procedure one - An upper drill hole at least four inches greater in diameter than the nominal size of the permanent well casing shall extend from land surface into a sound, unfractured, consolidated formation. Unperforated permanent casing shall be installed to extend to this same depth, and the lower part of the casing shall be driven and sealed into the consolidated formation to establish a watertight seal between the formation and the casing. The remainder of the annular space to land surface shall be filled with cement grout, neat cement, or bentonite.
    - (i) If the consolidated formation is encountered at a depth less than eighteen feet from land surface, the upper drill hole and permanent casing shall extend to a minimum of eighteen feet from land surface. See Figure 2.
    - (ii) If cement grout, neat cement, or bentonite slurry is placed by pumping to seal the entire annulus from the bottom up to land surface, the upper drill hole may be a minimum of two inches larger than the outside diameter of the permanent casing.
  - (b) Procedure two - An upper drill hole at least four inches greater in diameter than the nominal size of the permanent casing extends from land surface to a depth of at least eighteen feet. An unperforated permanent casing shall be driven into the consolidated formation and sealed in a manner that establishes a watertight seal



between the formation and the casing. Throughout the driving of the well casing to the consolidated formation, the annular space between the upper drill hole and the permanent casing shall be kept at least one-half full with unhydrated bentonite, or bentonite slurry. The remainder of the annular space to land surface shall be filled with cement grout, neat cement, or bentonite. See Figure 2.

- (c) If temporary surface casing is used in either procedure (a) or (b) of this subsection, the casing must be a minimum of eighteen feet long and at least four inches larger in diameter than the permanent casing. If a consolidated formation is encountered within the first eighteen feet, the temporary casing may terminate at the interface of the consolidated formation. Withdrawal of the temporary casing must take place simultaneously with proper sealing of the annular space to land surface.

#### **What are the special sealing standards for artesian wells?**

- (1) When flowing artesian conditions are known or suspected, the operator shall have a written sealing plan prepared prior to initiation of construction. The plan shall identify the type of sealing material that will be used and the method for sealing. The plan shall also contain at least one alternative construction method for sealing and an emergency contingency section which will identify steps to be taken if the ground water flow cannot be controlled.
- (2) When artesian water is encountered in the well, an unperforated well casing shall extend into the confining stratum overlying the artesian zone. The casing shall be sealed into the confining stratum to prevent surface and subsurface leakage from the artesian zone. If the well flows at land surface, it must be equipped with a control valve so that flow can be completely stopped.
- (3) The well shall be completed with seals, packers or grout that eliminates leakage around the well casing. The driller shall not move the drilling rig from the well site until leakage is completely stopped, unless authority for temporary removal is granted by the responsible regulator, or when loss of life or property is imminent.

#### **How do I seal dug wells?**

The surface seal of all dug wells shall be constructed to effectively seal the annular space between the undisturbed native material of the upper well hole and the well curbing, which may consist of (concrete tile, steel pipe or liner). The seal depth shall be at least eighteen feet from land to surface or to within three feet of the bottom in dug wells that are less than twenty-one feet in depth. Dug wells may be sealed with cement, neat cement, bentonite, or cement grout. A cap shall be placed on all dug wells. Except during maintenance, the cap shall remain in place. The cap shall prevent entry of

pollutants, insects, and mammals into the well. See Figure 3.

**What are the special sealing standards for driven wells and jetted wells?**

- (1) Driven wells - An upper hole at least four inches greater in diameter than the permanent casing shall extend a minimum of six feet below land surface. The annular space between the upper oversized drill hole and the permanent casing must be kept at least one-half full with bentonite or bentonite slurry throughout all driving of the pipe. The remaining annular space to land surface shall be filled with cement grout, neat cement, or bentonite. See Figure 4.
- (2) Jetted wells - The surface seal in jetted wells shall be constructed to seal the annular space between the permanent casing and undisturbed native soil. An upper hole at least four inches greater in diameter than the permanent casing shall extend a minimum of six feet below land surface.

**What are the construction standards for artificial gravel-packed wells?**

In gravel-packed wells, the gravel mixture shall be placed around the screen so that bridging or size separation does not occur. The gravel pack must be clean, and chemically stable. All gravel and water used must be disinfected with at least fifty parts per million (ppm) chlorine for a contact time of at least thirty minutes. Rinse water containing chlorine is a pollutant. Chlorine in the rinse water must be allowed to dissipate and the water must be discharged in a safe manner consistent with the intent of the Clean Water Act. See Figure 5.

**What are the standards for the upper terminal of water wells?**

- (1) The watertight casing or curbing of any well shall extend at least six inches above the ground surface. Pit completion is prohibited.
- (2) Where the site is subject to flooding, the top of the casing must be at least two feet above the estimated water level of a one hundred-year frequency flood.
- (3) All wells shall be equipped with an access port that allows for the measurement of the depth to water surface, or with a pressure gage that indicates the shut-in pressure of a flowing artesian well. See Figure 6. The access ports and pressure gages or other openings in the cover are sealed or capped to prevent entrance of surface water or foreign material into the well.
- (4) Any vent opening, observation ports or air-line equipment shall extend from the upper end of the well by watertight piping to a point at least six inches above land surface. The terminals of these facilities shall be shielded or sealed to prevent entrance of foreign matter or pollutants.

- (5) A pitless adapter, or similar device is permitted on water wells if it is made with fittings approved by the department of health. The connection must be above static water level.
- (6) Any person who removes any part of a surface seal to install a pitless adapter shall repair the seal so that it is brought up to land surface.

**What are the requirements for temporary capping?**

- (1) All wells which are not in use, or are temporarily out of service, must be securely capped so that no contamination can enter the well.
- (2) Capping must be affixed by solid welds or equal seal to prevent unauthorized access to the well.
- (3) Temporary capping alone will not satisfy the decommissioning requirements of Appendix F.

**What are the well tagging requirements?**

- (1) It shall be the operator's responsibility to place a well identification tag with a unique identification number on every well that they construct, alter, or reconstruct.
  - (a) The alpha-numeric number shall be recorded on the drilling report in the space provided.
  - (b) The operator shall remove the well identification tag on all wells they decommission and shall attach the tag to the decommissioning well report.
- (2) It shall be the well owner's responsibility to place a well identification tag with a unique identification number on every well they own.
  - (a) Upon request, the department of ecology shall furnish the well owner with a well tag and tagging instructions.
  - (b) The well owner shall tag their well(s) and submit a completed tagging report to the department.
- (3) The well tag shall be permanently attached to the outer well casing or other prominent well feature and be visible above land surface.
- (4) All well identification tags shall be supplied by the department of ecology.

- (5) It is unlawful for a person to tamper with or remove a well identification tag except during well alteration.

**How do I make sure my equipment and the water well are free of contaminants?**

- (1) All tools, drilling equipment and materials shall be free of contaminants prior to beginning well construction. Contaminants include lubricants, fuel, bacteria that will reduce the well efficiency, and any other item(s) that will be harmful to public health and/or the resource or reduce the life of the water well.
- (2) Every new or reconditioned water well, after completion of construction or repair, and before being placed in service, shall be cleared of all foreign materials, and free of contamination.
- (3) The well casing shall be swabbed and cleaned to remove oil, grease or joint dope.
- (4) All pumping equipment, sand or gravel used in gravel-packed water wells and the well casing shall be thoroughly sluiced with clean water and disinfected. The disinfecting agent shall be safe and not impair the potability of the ground water. All disinfectants shall be used in accordance with manufacturer's recommendations.
- (5) Before the well is put to use, the standing water in the well shall be disinfected and flushed to remove all traces of disinfectant. A water sample may then be taken and tested for coliform bacteria or other items required by the state department of health or local or tribal health authorities. Examples of other test items may include: Chloride, nitrates, dissolved solids, sodium, iron, pH, manganese, conductivity, hardness, and turbidity. If testing indicates a presence of coliform bacteria, more stringent disinfecting methods may be required by the department of health or local or tribal health authorities.
- (6) If chlorine is used to disinfect the well water, sufficient chlorine will be added to the standing water to give a residual of fifty ppm free chlorine. The chlorine shall remain in the well for a period of at least twenty-four hours. After twenty-four hours, a minimum of one ppm free chlorine residual shall remain in the water before the well is flushed free of chlorine and a sample taken. Other disinfectants placed in the ground water shall be used in quantities that are safe, nonpolluting, and that are not a detriment to the potability of the ground water. All disinfectants used in ground water shall be used in accordance with manufacturer's recommendations.
- (7) Chlorine and other disinfectants can pollute. Allow the chlorine or other disinfectants in the rinse water to dissipate before discharging the water to surface water. This

water shall be discharged in a safe manner consistent with the intent of the Water Pollution Control Act, chapter 90.48 RCW.

**How do I ensure the quality of drilling water?**

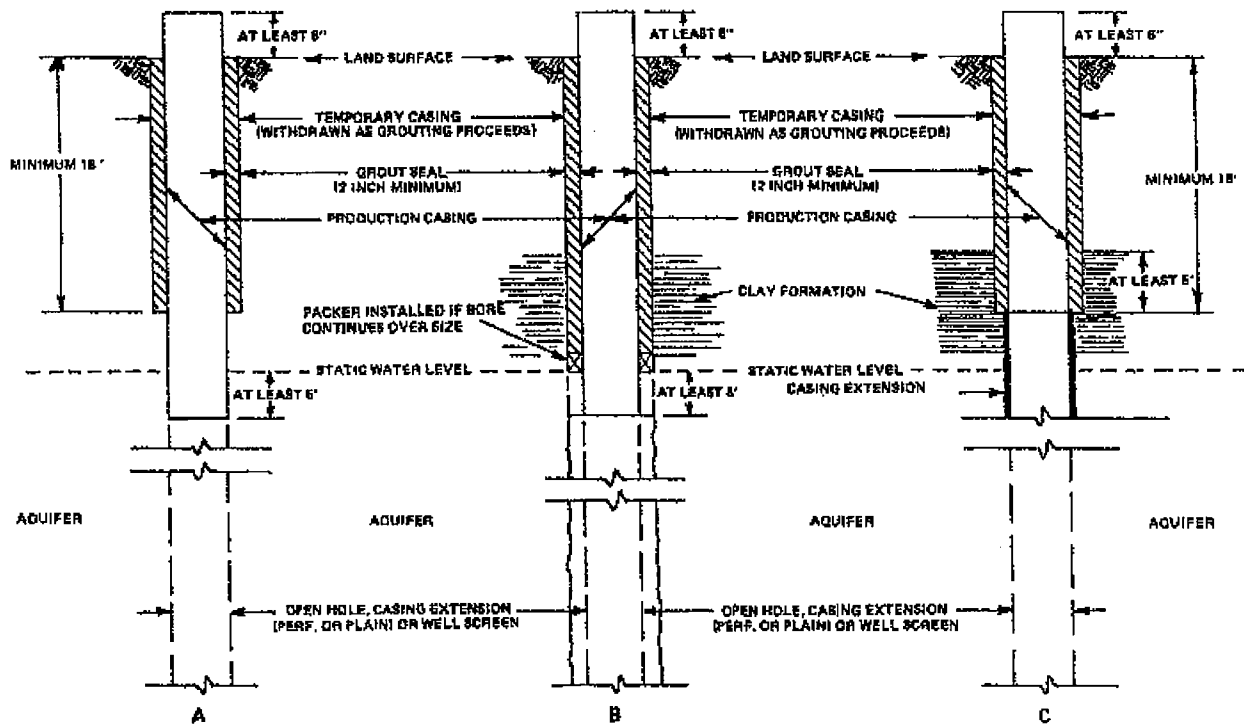
All water introduced into a well for drilling purposes and for mixing sealing materials shall be obtained from a potable water source and have a chlorine residual of not more than 1 ppm free chlorine.

**What are the standards for pump installation?**

All pumps and pumping equipment and materials must be free of contamination and shall be installed in a manner consistent with the intent and purposes of these regulations.

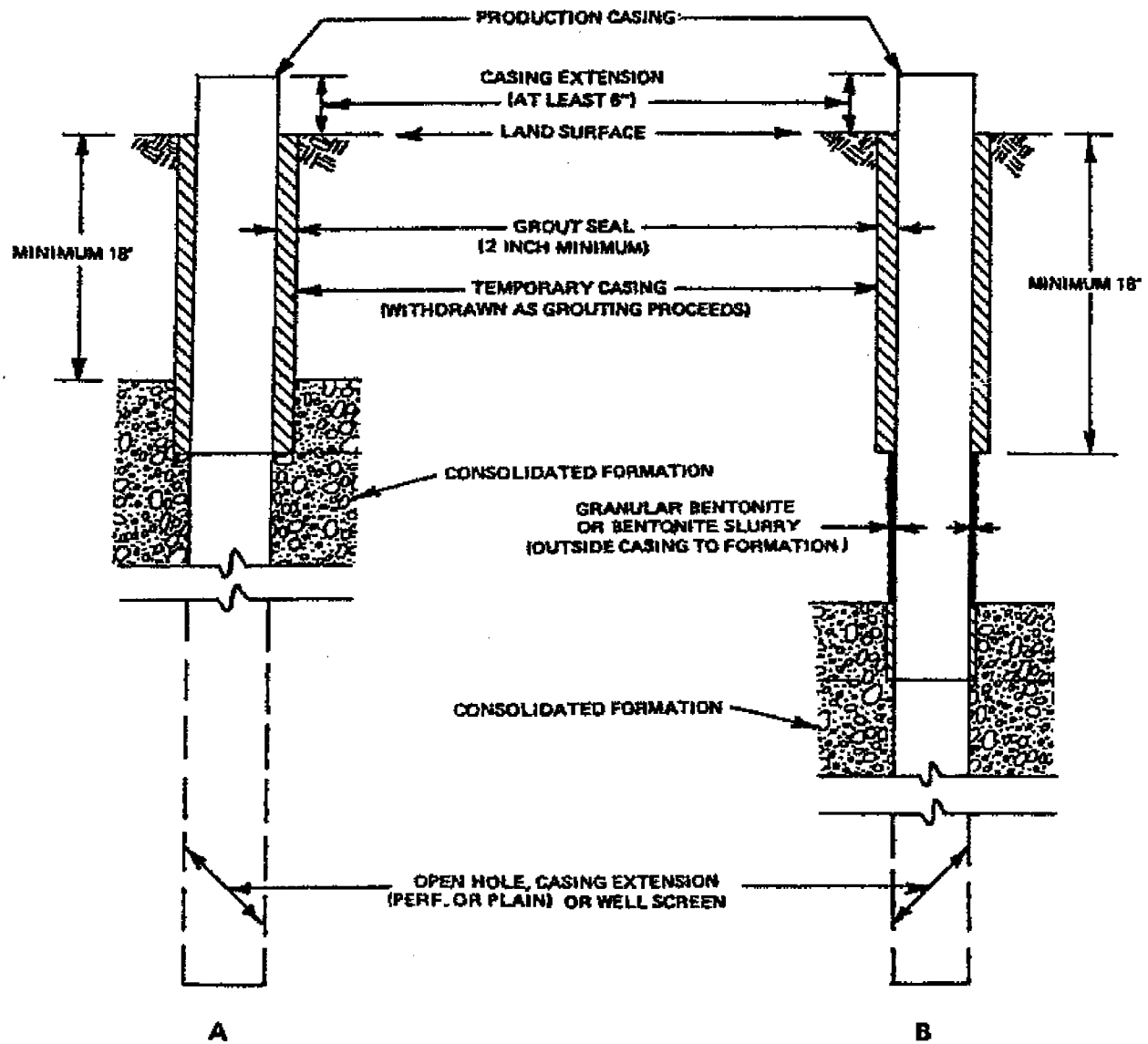
**What are the standards for chemical conditioning?**

The use of detergents, chlorine, acids or other chemicals in wells for the purpose of increasing or restoring yield, shall be used according to manufacturer's recommendations. Except for routine maintenance and cleaning, a well drilling license is required for all chemical conditioning that alters the condition of the water well.

**Well Construction Illustrations.**

NOT TO SCALE

Figure 1. SEALING OF UNCONSOLIDATED FORMATIONS

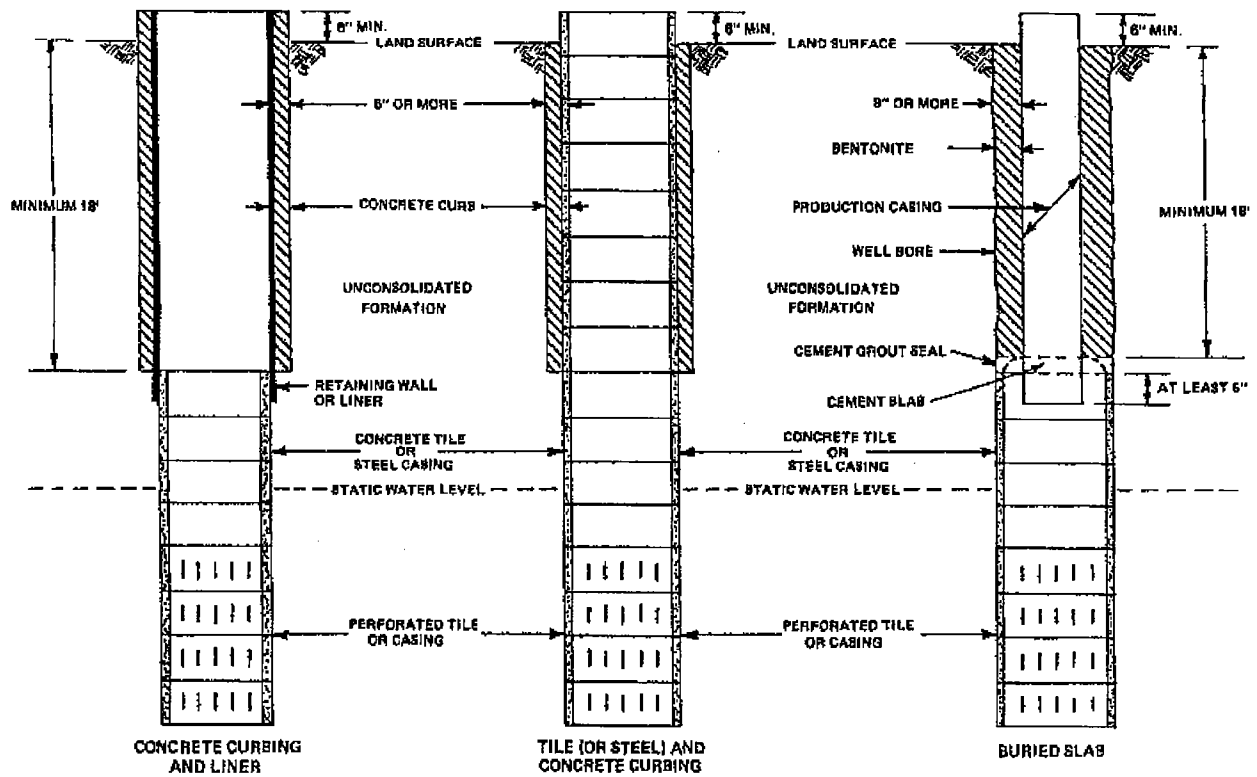


NOT TO SCALE

Figure 2. SEALING OF CONSOLIDATED FORMATIONS



37



NOT TO SCALE

Figure 3. SEALING OF DUG WELLS

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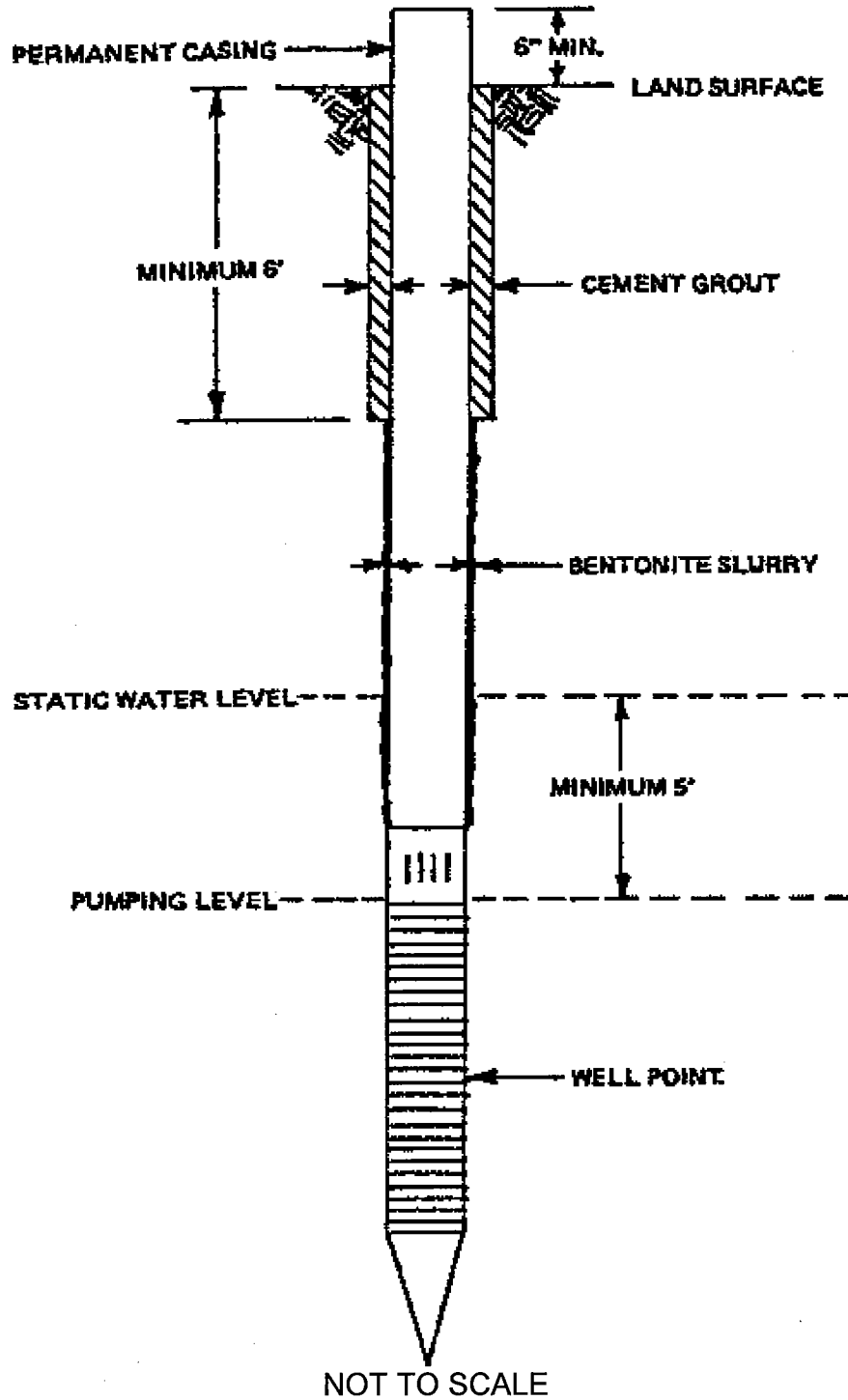
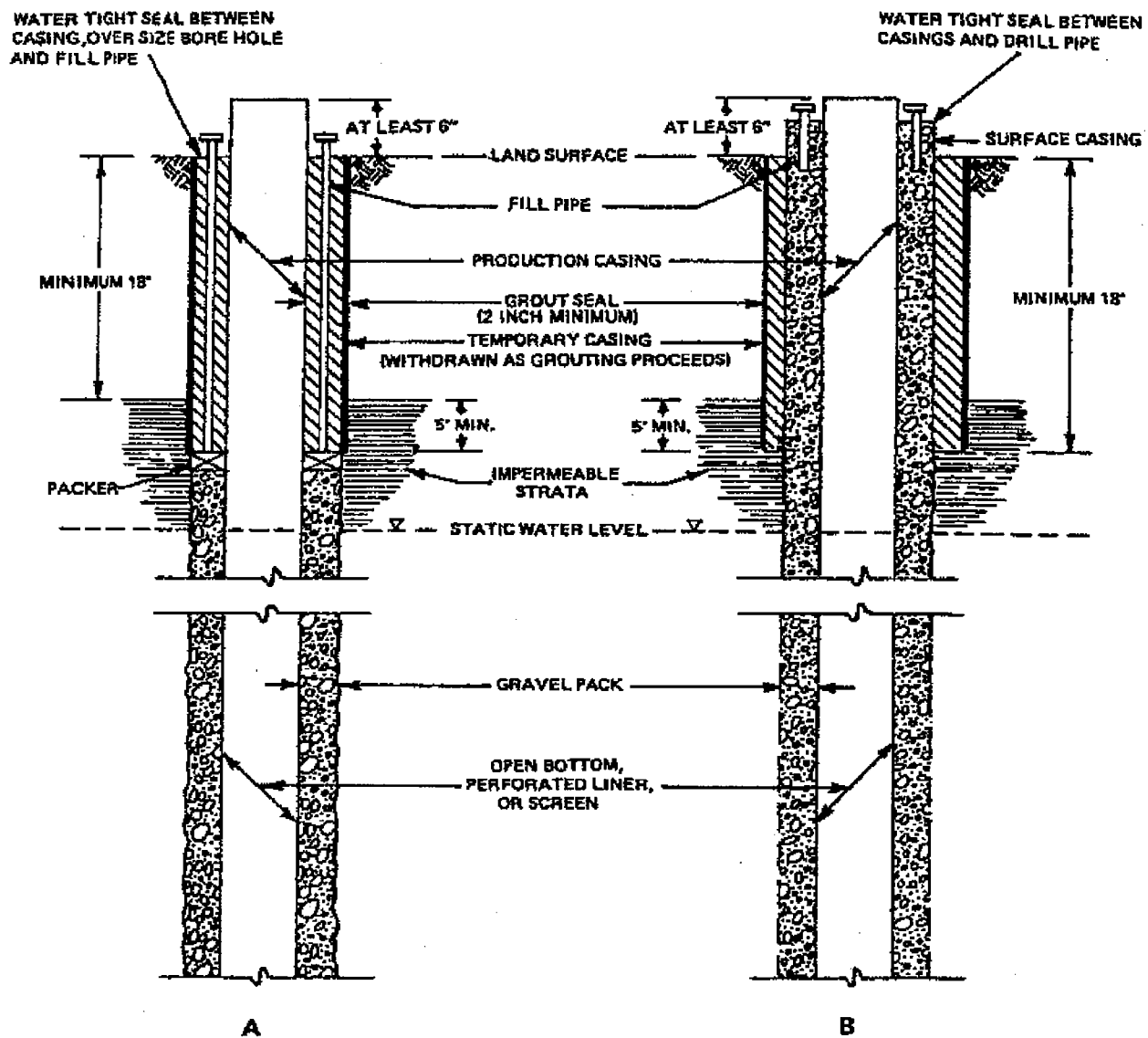


Figure 4. SEALING OF DRIVEN AND JETTED WELLS



NOT TO SCALE

A--WELL CONSTRUCTED WITH TEMPORARY SURFACE CASING.

B--WELL CONSTRUCTED WITH PERMANENT SURFACE CASING.

Figure 5. SEALING OF GRAVEL--PACKED WELLS

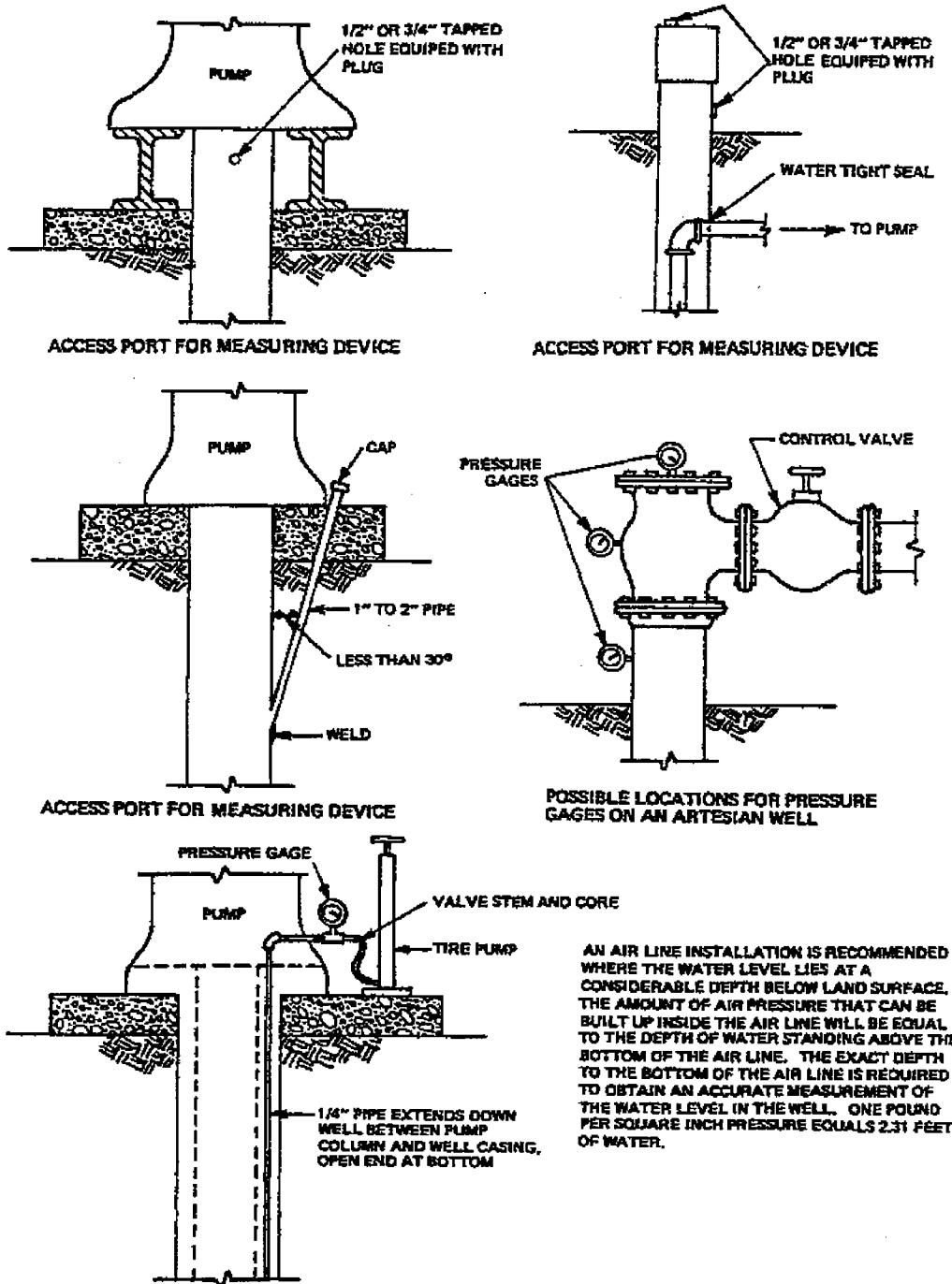


Figure 6. SUGGESTED METHODS FOR INSTALLING PRESSURE GAGES AND AIR LINES FOR MEASURING WATER LEVELS IN WELLS

## **APPENDIX D REQUIREMENTS FOR MEASURING WATER USE**

### **What are the general requirements for measuring devices?**

- (1) No withdrawal of water shall be made unless the measuring devices and facilities are in proper operating condition, except when:
  - (a) A measuring device or facility is being repaired according to the requirements of subsection (2) or (3) of this section; and
  - (b) The responsible party uses a substitute measuring device or other method to measure the withdrawal or to provide a reasonable estimate thereof.
- (2) Upon discovery of a malfunctioning measuring device or facility, the responsible party shall repair the device or facility and make them operable as soon as possible.
- (3) If a responsible party does not repair a malfunctioning measuring device or facility and make them operable as soon as possible, the responsible regulator may order that a measuring device or facility be repaired or replaced within a specified time period.
- (4) Measuring devices and facilities must register and be calibrated for the full range of discharge from the withdrawal for which they are to be used.
- (5) There shall be no turnouts or diversions between the source of water and the measuring devices and facilities, except for faucets or other small outlets that have a de minimis effect on the diversion or withdrawal.
- (6) In the case of intermittent artesian wells, the meter shall be installed in a manner that will measure both pumped and flowing discharge.

### **What are the specific requirements for meters for pressure systems?**

- (1) At any flow rate measured by the meter, the meter itself shall be rated by the manufacturer to register not less than ninety-five percent, nor more than one hundred five percent, of the water actually passing through the meter.
- (2) At any flow rate measured by the measuring system (i.e., meter plus any secondary equipment such as data recorders) the system shall register not less than ninety percent, nor more than one hundred ten percent, of the water actually passing through the system.

- (3) The meter shall have a visual totalizer or the facility shall be capable of totalizing the flow. The totalizer shall contain sufficient recording digits to ensure that "roll over" to zero does not occur before the next recording period.
- (4) The responsible regulator may require that the measuring device be capable of indicating flow rate as well as totalized flow.
- (5) For other conditions necessary to ensure accurate and precise measurement data, the selection, installation and maintenance of measuring devices by water users shall be guided by generally accepted industry standards, such as the American Water Works Association standards and information from the manufacturer. These standards also shall be used by the responsible regulator in making decisions as to the appropriate selection, installation, operation and maintenance of measuring devices acceptable under this appendix.

**What are the installation requirements for meters on pressure systems?**

Meters required under the Settlement Agreement shall meet the following installation requirements:

- (1) The meter shall be installed in accordance with manufacturer specifications.
- (2) There shall be a full pipe of water at all times when water is being withdrawn.
- (3) The meter shall not be installed in a manner that creates an uneven velocity profile. Straight sections of pipe before and after the meter, straightening vanes or other flow conditioning devices shall be used to provide even flow through the meter as necessary.

**What are the operation and maintenance requirements for meters on pressure systems?**

- (1) Meters shall be inspected and maintained as specified by the manufacturer.
- (2) Meters shall be field or shop calibrated, as specified by the manufacturer. Meters also shall be field or shop calibrated and/or repaired if they are over or under registering. System diagnostics may substitute for physical calibration of nonmechanical meters.





## **APPENDIX E WELL DECOMMISSIONING**

### **What are the standards for decommissioning a well?**

Any well that is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety, or public health hazard shall be decommissioned.

### **What information must be provided for a decommissioned well?**

The decommissioning procedure (as prescribed in this appendix) must be recorded and reported to the responsible regulator in a form that includes the following information:

- (1) Well log and other information about construction (if available), depth, casing type and diameter. Also include street address of the well, Township, Range, and quarter/quarter section, tax parcel number, and identification tag number at time of decommissioning.
- (2) Provide reason that well decommissioned.
- (3) Water level and well depth information (collected before well is decommissioned) including the elevation above ground surface for the water level measuring point.
  - a. A non-pumping water level measurement must be taken and recorded prior to decommissioning the well, and the water level at the time of measurement shall not be significantly affected by pumping of that or nearby wells
  - b. A measurement of well depth must be taken and recorded prior to decommissioning of the well.
- (4) Precise location of the well using a Global Positioning System (GPS) and/or a high resolution aerial photograph (which can be obtained from the responsible regulator).
- (5) Disposition of well tag (if any).
- (6) Documentation of the method of well decommissioning, method(s) of placement of the sealing material, sealing materials used, the quantity of those materials, location of placement of sealing materials in the well, location and resolution of obstructions that could not be removed, and mix specifications for the sealing material, including the type and viscosity of bentonite grouts. This also includes calculation of the volume of sealing material needed for each interval and the resolution of any discrepancies between the amount of sealing material needed and the amount of

sealing material used for each interval.

- (7) Documentation and certification by the well driller of how the well was decommissioned and that it was decommissioned properly. Include the name of the company, registration number of the company, person(s) that performed the work, and the date(s) that decommissioning occurred.

### **Specific Practices for Cased Wells**

- (1) Every effort must be made to remove obstructions prior to decommissioning the well.
- (2) Cased water wells shall be decommissioned in one of the following ways:
- (a) Perforate the casing from the bottom to within five feet of the land surface and pressure grout the casing.
    - (i) Perforations shall be at least four equidistant cuts per row, and one row per foot. Each cut shall be at least one and one-half inches long.
    - (ii) Apply enough pressure to force the sealing material through the perforations, filling any voids on the outside of the casing.
    - (iii) The remainder of the casing shall be filled with cement grout, neat cement, or bentonite slurry.
    - (iv) Place a watertight secure cover on top of the casing.
  - (b) Withdraw the casing and fill the bore hole with cement grout, neat cement, or bentonite as the casing is being withdrawn.
  - (c) If it can be verified through a field examination and review of the drilling report that a water well was constructed in accordance with appendix C, and it is not being decommissioned to allow the siting of potential sources of contamination within one hundred feet of the well, it shall be decommissioned by the casing removal, or casing perforation methods described above or by:
    - (i) Filling the casing from bottom to within five feet of land surface with bentonite, cement grout, or neat cement.
    - (ii) The casing may be cut off at a maximum of five feet below land surface.

### **Specific Practices for Uncased Wells**

Uncased wells - Backfill uncased wells with concrete, cement grout, neat cement, or bentonite.

**Specific Practices for Dug Wells**

Dug wells - Remove all debris and obstructions that impede decommissioning or that may contaminate the aquifer from within the dug well. Install clean chlorinated sand or pea gravel to a point two feet above static water level. Fill the remainder of the well with concrete or bentonite to the land surface. Dug wells with static levels below twenty feet from land surface, may be decommissioned by placing chlorinated sand or pea gravel to the static level and then placing alternating layers of sealing material and chlorinated sand or pea gravel to within twenty feet of land surface. The alternating layers of sand or pea gravel must be a maximum of five feet thick. The minimum thickness of the sealing material layers must be five feet. The remainder of the dug well to a maximum of two feet below land surface shall be filled with bentonite, neat cement, cement grout, or concrete. Bentonite slurry shall not be used to decommission dug wells.

**Placement of Sealing Material Below Static Water Level**

Sealing material placed below the static water level shall be piped directly to the point of application or placed by means of a dump bailer or tremie tube. If cement, cement grout, or neat cement is used to seal below the static water level in the well, the material shall be placed from the bottom up by methods that avoid segregation or dilution of the material. When used to place grout, the discharge end of the tremie tube shall be submerged in the grout to avoid breaking the seal while filling the annular space. Sealing material may be hand poured above the static water level, provided the material does not dilute or segregate, and the resulting seal is free of voids.

**APPENDIX F****CHLORIDE SAMPLE PROCEDURES FOR ANALYSIS AT A LABORATORY**

Laboratory samples shall be collected in containers prepared and provided by a laboratory following instructions provided by a laboratory certified by Washington State (<http://www.ecy.wa.gov/apps/eap/acclabs/labquery.asp>) or the United States government. The equipment required to collect laboratory samples is listed in Table 1 and the sampling method for ground water chloride sampling is described in Table 2. The sampling methods in Table 2 are superseded by laboratory instructions if the laboratory instructions indicate a different method of sample collection.

Laboratory supplied bottles must be inspected upon receipt from the laboratory and prominently marked with an "X" if the bottle cap is off or loose, or the cap or bottle is damaged. These bottles must be returned to the laboratory. Laboratory supplied bottles should not be rinsed prior to sample collection unless specifically indicated by the laboratory. Chain of custody protocols and forms are used for laboratory samples. All laboratory bottles must be securely stored prior to and after use. After sample collection, sample bottles are stored upright and transported to the laboratory.

Samples for laboratory analysis shall be collected, labeled (site identifier, date, time, analysis, and collecting entity/person), stored, and delivered to the laboratory using chain of custody procedures.

**Table 1. Equipment required to collect laboratory samples.**

<b>Supplies</b>
<ul style="list-style-type: none"> <li>• Unopened and undamaged laboratory supplied sample bottles.</li> <li>• Chain of custody form</li> <li>• Laboratory instructions</li> <li>• Sampling methods table (Table 2 or superseding document)</li> </ul>

<b>Table 2. Collection of chloride ground water laboratory samples.</b>			
<b>Collection of Representative Ground Water Sample in Container</b>	<b>Parameter Measurement</b>	<b>Acclimation / stabilization criteria</b>	<b>Problems/Corrective Actions</b>
<ol style="list-style-type: none"> <li>1) Pump the well until at least three casing volumes have been removed from the well before taking your sample (Ecology or Lummi Nation staff can help you determine how long you will have to pump before sampling to meet this requirement).</li> <li>2) Sample should be collected prior to the water going through any sort of treatment system (water softener, filter, etc...) if one is installed.</li> <li>3) Label closed (i.e., not previously opened) and undamaged laboratory supplied sample container with sample site identifier, date, time, analysis, and entity/person collecting the sample.</li> <li>4) Do not allow bottle or cap to come into contact with foreign materials.</li> <li>5) Open chloride sample container and fill bottle to nearly full (approximately the shoulder of the bottle, or to the graduation near the top).</li> <li>6) If sample collected successfully, cap bottle and securely store in sheltered area out of direct sunlight. Record sample collection on chain of custody form.</li> <li>7) If sample not collected successfully, place an "X" on the label and collect another sample starting with Step 1 or 6 above, depending upon what went wrong. Record sample collection on chain of custody forms.</li> </ol>	Performed by certified laboratory.	Sample collected successfully	If sample not collected successfully, resample with fresh laboratory container.

<b>Table 2. Collection of chloride ground water laboratory samples.</b>			
<b>Collection of Representative Ground Water Sample in Container</b>	<b>Parameter Measurement</b>	<b>Acclimation / stabilization criteria</b>	<b>Problems/Corrective Actions</b>
8) When sample collection complete, ensure chain of custody form is completely filled out. Deliver samples to the contracted laboratory. Follow chain of custody procedures for sample collection, storage, transport, and delivery to the laboratory.			

# EXHIBIT H

Title 16 of Lummi Code of Laws:  
Sewer and Water District Code

(39 Pages)





**TITLE 16**  
**LUMMI NATION CODE OF LAWS**  
**SEWER AND WATER DISTRICT CODE**

Enacted: Resolution S-75 (3/17/75)  
Resolution U-5 (3/23/76)

Amended: Resolution T-33 (8/4/75)  
Resolution 77-169 (12/15/77)  
Resolution 84-1 (1/3/84)  
Resolution 84-100 (10/5/84)  
Resolution 86-13 (2/4/86)  
Resolution 86-55 (5/6/86)  
Resolution 87-116 (10/6/87)  
Resolution 89-407 (4/6/89)  
Resolution 92-01 (1/7/92)  
Resolution 92-103 (7/28/92)

**TITLE 16  
LUMMI NATION CODE OF LAWS  
SEWER AND WATER DISTRICT CODE**

**Table of Contents**

**Chapter 16.01 Sewer and Water District and Sewer and Water Board**

16.01.010 Establishment of District.....	1
16.01.020 Sewer Board and Water Board.....	1
16.01.030 Purpose.....	1
16.01.040 Board Members.....	1
16.01.050 Term of Office .....	1
16.01.060 Elections.....	1
16.01.070 Voting .....	1
16.01.080 Nominations and Qualifications .....	1
16.01.090 Certification of Results .....	2
16.01.100 Initial Board .....	2
16.01.110 Officers .....	2
16.01.120 Records of Meetings .....	2
16.01.130 Quorum and Voting .....	2
16.01.140 Vacancies .....	2
16.01.150 Meetings.....	2
16.01.160 Signatures.....	2
16.01.170 Board Voting .....	2
16.01.180 Powers and Duties.....	3
16.01.181 Power to Acquire Property and Rights-Construction, Operation, etc., of System.....	3
16.01.182 Contracts for Acquisition, Use and Operation, etc., Authorized Service to Areas in Other Districts.....	3
16.01.183 Contracts for Labor and Materials-Call for Bids-Small Works Roster-Award of Contract-Emergency, Requirements Waived.....	4
16.01.184 Comprehensive Plan .....	4
16.01.185 Insurance .....	5
16.01.186 Budget.....	5
16.01.187 Administrative Code .....	5
16.01.188 Indemnification .....	5
16.01.189 Indemnification-Consultants.....	6
16.01.190 Conflict of Interest .....	6

**Chapter 16.02 Manager and Finances**

16.02.010 Manger and Employment.....	6
16.02.020 Depository.....	6
16.02.030 Receipts and Disbursements .....	6
16.02.040 Records and Accounts .....	7
16.02.050 Audits and Reports.....	7
16.02.060 Insurance .....	7
16.02.070 Fiscal Year .....	7
16.02.080 Leasing or Management of Lands.....	7
16.02.090 Petty Cash Fund .....	7
16.02.100 Physical Inventory.....	7
16.02.110 Ownership.....	7

**Chapter 16.03 Definition of Terms**

16.03.010	General	7
16.03.020	Acceptance	7
16.03.030	Board	8
16.03.040	B.O.D.	8
16.03.050	Building Drain	8
16.03.060	Building Sewer	8
16.03.070	Council	8
16.03.080	Developer or Owner Extension	8
16.03.090	District	8
16.03.100	District Clerk	8
16.03.110	Duplex	8
16.03.120	Engineer	8
16.03.130	Facility	8
16.03.140	Garbage	8
16.03.150	Industrial Wastes	9
16.03.160	Latecomer's Agreement	9
16.03.170	Licensed Sewage Disposal Cleaner	9
16.03.180	Licensed Sewage Disposal System Designer	9
16.03.190	Licensed Side Sewer Contractor	9
16.03.200	Manager	9
16.03.210	Multiple Dwelling	9
16.03.220	Natural Outlet	9
16.03.230	Owner	9
16.03.240	Person	9
16.03.250	pH	9
16.03.260	Private Sewage Disposal System	9
16.03.270	Properly Shredded Garbage	9
16.03.280	Public Sewer	9
16.03.290	Sanitary Sewer	10
16.03.300	Sewage	10
16.03.310	Sewage Treatment Plant	10
16.03.320	Sewage Works	10
16.03.330	Sewer	10
16.03.340	Sewer Stub	10
16.03.350	Single Family Dwelling	10
16.03.360	Standard Participation Contract	10
16.03.370	Structure	10
16.03.380	Suspended Solids	10
16.03.390	Watercourse	10
16.03.400	Shall-May	10
16.03.410	Gender and Plurals	10
16.03.420	Definitions not Exclusive	10

**Chapter 16.04 Use of Public Sewer Required**

16.04.010	Unlawful Deposit of Waste	10
16.04.020	Treatment of Sewage Required	10
16.04.030	Unlawful Sewage Disposal Facilities	11
16.04.040	Toilet Facilities and Sewer Connection Required: Time, Manner, & Repair	11
16.04.050	Failure to Connect or Repair Building Sewer	11
16.04.060	Property Capable of Being Served by Sewer: Availability of Public Sewer	12
16.04.070	New Construction	12

16.04.080 Connection Priority .....	12
-------------------------------------	----

### **Chapter 16.05 Private Sewage Disposal**

16.05.010 Private Sewage Disposal Allowed .....	12
16.05.020 Private Sewage Disposal: Permit Required .....	12
16.05.030 Private Sewage Disposal Permits: Procedure for Obtaining .....	12
16.05.040 General Standards .....	13
16.05.050 Requirements for Construction or Alteration .....	13
16.05.060 Design, Construction, and Installation Standards .....	14
16.05.070 Installation and Alteration: Who May Perform .....	14
15.05.071 Tables .....	14
16.05.080 Private Sewage Disposal Systems Cleaner's License .....	14
16.05.090 Designer's License .....	15
16.05.100 Fees .....	16

### **Chapter 16.06 Building Sewers and Waterline Connections**

16.06.010 Non-Authorized Connections, Disturbances, Etc., of Public Sewer Forbidden .....	16
16.06.020 Building Sewer and Water Line Permits .....	16
16.06.030 Building Sewer Permits: Procedure for Obtaining .....	16
16.06.040 Side Sewer or Water Line Contract .....	17
16.06.050 Wyes, Tees, Stubs: Location, Inspection Riser .....	17
16.06.060 Costs of Building Sewer or Water Line Borne by Owner .....	17
16.06.070 Building Sewer or Water Line For Each Building: Exceptions .....	18
16.06.080 Reuse of Old Building Sewers .....	18
16.06.090 Plumbing and Building Sewer: Specifications .....	18
16.06.100 Building Sewer: Size and Slope .....	18
16.06.110 Building Sewer: Elevation, and Direction .....	18
16.06.120 Information From District .....	18
16.06.130 Building Sewer or Water Line: Excavation, Pipe Laying .....	19
16.06.140 Building Sewer or Water Line Connection to Public Sewer or Water Line .....	19
16.06.150 Building Sewer: Inspection .....	19
16.06.160 Protection of Excavations: Restoration of Public Property .....	19
16.06.170 Unlawful Connections to Public Sewer .....	19
16.06.180 Private Sewers or Water Line: Conveyance to District .....	19
16.06.190 Connection of Outside Property .....	19
16.06.200 Building Sewer: Cost from Property Line to Public Sewer .....	19
16.06.210 Disconnection of Building Sewer .....	20

### **Chapter 16.07 Standard Participation Contract**

16.07.010 Standard Participation Contract: Eligibility .....	20
16.07.020 Standard Participation Contract: Terms .....	20
16.07.030 Charges For Trunkage, Connection, Permit Fees, and Charges .....	20
16.07.040 Standard Participation Contract: Other Terms .....	21
16.07.050 Developer's or Owners Contracts .....	21
16.07.060 Sewer Extension .....	21
16.07.070 Review of Plans .....	21
16.07.080 Minimum Plan Requirements .....	21
16.07.090 Minimum Construction Requirements .....	21
16.07.100 Permits For Sewer Construction .....	21
16.07.110 Fees For Design and Engineering .....	21
16.07.120 "As Built" Plans .....	21

16.07.130 Bill of Sale .....	22
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#### **Chapter 16.08 Sewer and Water District Charges and Fees**

16.08.010 Charges and Fees .....	22
16.08.020 Billings and Delinquent Charges .....	22
16.08.030 Rates and Charges-Classification of Service .....	22
16.08.031 Stand By Charges Authorized.....	22
16.08.040 Connection Fees.....	22
16.08.050 Nature of Obligations and Remedies .....	23
16.08.060 Collection of Charges - Lien.....	23
16.08.070 Foreclosure of Liens.....	23

#### **Chapter 16.09 Use of the Public Sewer and Water Systems**

16.09.010 Unlawful Discharge of Storm and Other Waters Into Sewers .....	24
16.09.020 Unlawful Wastes .....	24
16.09.030 Separators.....	24
16.09.040 Separators: Maintenance .....	24
16.09.050 Forbidden Wastes: Preliminary Treatment and Approval .....	24
16.09.060 Preliminary Treatment Facilities: Maintenance .....	25
16.09.070 Industrial Wastes: Control Manhole .....	25
16.09.080 Tests of Wastes: Location of Sampling .....	25
16.09.090 Special Agreements.....	25

#### **Chapter 16.10 Protection From Damage**

16.10.010 Entry on Property .....	25
16.10.020 Meters .....	26
16.10.030 Obtaining Service without Authorization .....	26
16.10.040 Manager: Responsibilities and Limitations.....	26

#### **Chapter 16.11 Side Sewer or Water Line Contractors**

16.11.010 Side Sewer or Water Line Contractor License Required .....	26
16.11.020 License: Standards, and Application.....	26
16.11.030 Side Sewer or Water Line Contractors: Bond, Insurance .....	26
16.11.040 Side Sewer or Water Line Contractors: Responsibilities.....	27
16.11.050 License: Revocation, Suspension.....	27
16.11.060 License: Renewal .....	28

#### **Chapter 16.12 Utility Local Improvement District**

16.12.010 Local District Authorized.....	28
16.12.020 Resolution to Form Local District-Procedure-Written Protest .....	28
16.12.030 Improvement Ordered-Divestment of Power to Order-Assessment Roll .....	29
16.12.040 Notice of Filing Roll .....	29
16.12.050 Hearing on Protests-Order .....	30
16.12.060 Enlarged Local District May be Formed.....	30
16.12.070 Conclusiveness of Roll When Approved.....	30
16.12.080 Segregation of Special Assessment-Fees.....	30

**Chapter 16.13 Violations of Ordinance**

16.13.010 Liability to District.....	31
16.13.020 Notice of Violation .....	31
16.13.030 Costs of Correction .....	31
16.13.040 Civil Penalty.....	31
16.13.050 Initial Connections.....	31

**Chapter 16.14 Judicial Review**

16.14.010 Initial Resolution of Disputes .....	31
16.14.020 Lummi Indian Business Council Review.....	32
16.14.030 Judicial Review .....	32
16.14.040 Arbitration.....	32
16.14.050 Costs.....	32
16.14.060 Minor Disputes.....	32
16.14.070 Other Appeals .....	32

**Chapter 16.15 Miscellaneous**

16.15.010 Notice, Billings .....	33
16.15.020 Validity: Severability .....	33

**TITLE 16  
LUMMI NATION CODE OF LAWS  
SEWER AND WATER DISTRICT CODE**

**Chapter 16.01 Sewer and Water District  
and Sewer and Water Board**

**16.01.010 Establishment of District**

There is hereby established the Lummi Tribal Sewer and Lummi Tribal Water District encompassing all of the land and waters within the exterior boundaries of the Lummi Indian Reservation.

**16.01.020 Sewer Board and Water Board**

There are hereby established the separate Lummi Tribal Sewer and the Lummi Tribal Water Board to serve as the administrative Boards for the Lummi Tribal Sewer and the Lummi Tribal Water District. When the term Board is used in this ordinance it shall mean the Sewer Board or the Water Board as the context shall indicate.

**16.01.030 Purpose**

The Lummi Tribal Sewer and Water Board (hereinafter referred to as "Board") shall be responsible for assuring that the operation of the system set out in this ordinance adheres to the dictates of the Sewer Ordinance and any regulations promulgated thereunder, the requirements of regulating agencies, and the conditions of customers, with the goal of keeping the District fiscally responsible, and viable.

**16.01.040 Board Members**

The Sewer Board shall consist of five (5) members. Two (2) members will be elected from the community within the boundaries of the District. Two (2) members will be elected from the Lummi Indian Tribal membership. The fifth member will be a member of the Lummi Indian Business Council, and shall be appointed by the Lummi Indian Business Council to the Sewer and Water Board position. The Water Board shall consist of the two elected tribal member representatives on the Sewer Board and the one appointed Lummi Indian Business Council representative.

**16.01.050 Term of Office**

Except for the initial Board, all members shall serve a two-year (2) term, except for the representative of the Lummi Indian Business Council, who shall serve a one-year (1) term.

**16.01.060 Elections**

Elections shall be held on the first Tuesday after the first Monday in November of each year. Each year, one (1) Indian position, one (1) open position, and the Business Council position shall be filled.

**16.01.070 Voting**

Voting shall be by secret ballot. At least thirty (30) days prior to the scheduled date of the elections, an election committee made up of the Chairman of the Lummi Indian Business Council, (or his designee), another Lummi Indian, and a non-Indian shall be appointed by the Sewer and Water Board to establish rules and election procedures for the conduct of the election, including, but not limited to, the type of secret ballot (machine or paper), the number and type of election officials at the polls, and compensation to be paid these people. Candidates and electors for the Indian positions shall consist of members of the Lummi Indian Tribe qualified to vote in tribal elections. Candidates and electors for the open positions shall consist of all persons residing within the District for at least ninety (90) days preceding the election and registered to vote in the elections of the State of Washington

**16.01.080 Nominations and  
Qualifications**

Within twenty-five (25) days preceding the date set for elections, any person qualifying as a candidate under the preceding sections may be nominated by submitting his or her name in writing to the election committee. Nominations shall be received by the election committee for ten (10) days and may not be received by the election committee later than fifteen (15) days prior to the date set for elections. The election committee will cause the names of all nominees to be posted at



prominent places within the Lummi Indian Reservation and published in a newspaper of general circulation together with the notice of the election.

#### **16.01.090 Certification of Results**

Within twenty-four (24) hours after the closing of the election, the election committee will count the ballots. The committee will then certify the election of the candidates with the highest number of votes from the eligible electors. Within ten (10) days of the election, the Chairman of the Lummi Indian Business Council shall issue a certificate of election to the certified candidates. The Lummi Indian Business Council shall appoint all candidates receiving certificates of election to the Board. A decision of the election committee on all election matters shall be final.

#### **16.01.100 Initial Board**

The entire initial Board shall be appointed by the Lummi Indian Business Council in accordance with the membership pattern set out above. Two Indians and two non-Indians and the Lummi Indian Business Council representative shall be appointed to serve until the annual general Council meeting in January, 1977, or until their successors are elected or appointed. Two Indians and two non-Indians shall be appointed to serve until the Annual General Council meeting in January, 1978, or until their successors are elected or appointed. At the expiration of the terms of the first members of the Board, terms shall be for a two-year period, except for the Lummi Indian Business Council representative.

#### **16.01.110 Officers**

Within thirty (30) days after the election, or after the appointment of the initial Board, there shall be an organizational meeting of the Board to elect a Chairman, Vice-Chairman and a Secretary Treasurer.

#### **16.01.120 Records of Meetings**

The Secretary shall keep or cause to be kept a complete and accurate record of all meetings, copies of which will be furnished to the Board.

#### **16.01.130 Quorum and Voting**

A minimum of three (3) members of the Board shall constitute a quorum. Any action taken by the Board must be taken by a minimum of a majority of those present at a Board meeting. Any resolution of the Board shall be signed by not less than three members of the Board before becoming effective.

#### **16.01.140 Vacancies**

If any member of the Board shall die, resign or no longer be qualified to be a Board member under the terms of this Ordinance, or if the Board shall expel any member for neglect or gross misconduct, after a hearing on the matter, a vacancy in his office shall automatically be created and the remaining members of the Board shall appoint a qualified person to serve the unexpired portion of the term. Such appointment shall be made consistent with the membership pattern for the Board established by this Ordinance. Any Board member who shall, without sufficient excuse, miss three (3) consecutive regularly scheduled meetings shall forfeit his or office, subject to reappointment by the Lummi Indian Business Council.

#### **16.01.150 Meetings**

The Board shall meet when business demands and requires attention, but in no case less than once a month. Meetings may be called by the Chairman, or upon request in writing of two members of the Board or by request in writing of the District Manager. If the Chairman fails to call a meeting within five days after receipt of a written request, any other two members of the Board may call such a meeting. No meeting shall be held except on not less than forty-eight (48) hours written notice to the Board members. Any action taken at a meeting not called in accordance with this section shall be void and of no effect.

#### **16.01.160 Signatures**

The Chairman or Vice-Chairman of the Board may sign such papers as the Board may authorize for and on behalf of the Board. All such authorizations shall be reflected in the records of the meetings.

#### **16.01.170 Board Voting**

Each member of the Board including the

Chairman shall be entitled to vote on each matter coming properly before the Board.

#### **16.01.180 Powers and Duties**

Generally, the Business Council shall have full plenary authority over the Board. The Board shall be responsible for providing management and over all responsibilities of the District and its projects. It shall have the power, with prior approval of the Council in each case, to borrow funds for the operation of the District, take and give evidence of indebtedness, collateral and other security for loans and advances. It shall have the power to enter into business contracts and to do all things necessary to carry out the responsibilities hereunder, and specifically the responsibilities delegated to it under this Ordinance. However, the Board shall not enter into any litigation without specific authorization of Council nor may the Board waive immunity from suit without such specific authorization. No contract entered into by the Board without Council approval shall be an obligation of the council.

#### **16.01.181 Power to Acquire Property and Rights-Construction, Operation, etc., of System**

The Board may acquire by purchase all lands, property rights, water, and water rights, within the District necessary for its purpose provided

(a) title to all such property so acquired shall be taken in the name of the United States for the use and benefit of the Lummi Nation in the case of real property and in the name of the Lummi Nation in the case of other property; and

(b) no real property shall be acquired without permission of the Council.

It may lease real or personal property necessary for its purposes for a term of years for which such leased property may not be needed permanently or substantial savings to the District can be effected thereby. The Board may construct, purchase, add to, maintain, and operate systems of water and sewers for the purpose of furnishing the District and inhabitants thereof with an adequate system of water distribution and

sewers for all uses and purposes, public and private, including but not limited to water storage and distribution, on-site sewage disposal facilities, facilities for the drainage of storm or surface water, public highways, streets, and roads with full authority to regulate the use and operation thereof and the service rates to be charged. For such purposes the District may conduct water and sewage throughout the district and throughout other political subdivisions within the District and purchase or acquire land and rights of way necessary for such sewer and water pipe. The District may erect reservoirs and sewage treatment plants, within or without the District, and may acquire by purchase properties or privileges necessary to be had to protect any lakes, rivers, or watercourses and also other areas of land from pollution, from its sewers or its sewage treatment plants. The District may charge property owners seeking to connect to the District system of water or sewer lines, as a condition to granting the right to so connect in addition to the cost of such connection, such reasonable connection charges as the Board shall determine to be proper. The District may require all property owners within the District located within the area served by the District system to connect their private drain and sewer and water systems with the District system under such penalty as the sewer and water commissioners shall prescribe by resolution. The District may for such purpose enter upon private property and connect the private drains or sewers with the District system and the cost thereof shall be charged against the property owner and shall be a lien upon property served.

#### **16.01.182 Contracts for Acquisition, Use and Operation, etc., Authorized Service to Areas in Other Districts**

The sewer and water District may enter into contracts with any county, city, town, sewer and water districts, or any other municipal corporation, or with any private person, firm, or corporation, for the acquisition, ownership, use, and operation of any property, facilities, or services, within or without the Sewer and Water District and necessary or desirable to carry out the purpose of the Sewer and Water District, and the Sewer and Water District may provide sewer and water service to property

owners in the areas within or without the limits of the District.

**16.01.183 Contracts for Labor and Materials-Call for Bids-Small Works Roster-Award of Contract-Emergency, Requirements Waived**

(a) All materials purchased and work ordered, the estimated cost of which is in excess of five thousand dollars (\$5,000), shall be let by contract. All contract projects, the estimated cost of which is less than twenty-five thousand dollars (\$25,000), may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The Board may set up uniform procedures to prequalify contractors for inclusion on the small works roster. The Board shall authorize by resolution a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all contractors on the small works roster. Immediately after an award is made the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised every six (6) months. All contract projects equal to or in excess of twenty-five thousand dollars (\$25,000) shall be let by competitive bidding. Before awarding any competitive contract the Board shall cause a notice to be published in a newspaper in general circulation in Whatcom County at least once, ten (10) days before the letting of such contract, inviting sealed proposals for such work, plans and specifications which must at the time of publication be on file in the office of the Board subject to public inspection. Such notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the Board on or before the day and hour named therein.

(b) Each bid shall be accompanied by a bid proposal deposit in the form of a certified check, cashier's check, postal money order, or

surety bond payable to the order of the Lummi Tribal Sewer and Water District in a sum of not less than five percent (5%) of the amount of the bid and no bid shall be considered unless accompanied by such bid proposal deposit.

At the time and place named such bid shall be publicly opened and read and the Board shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications; Provided that no contract shall be let in excess of the cost of said materials or work or if, in the opinion of the Board, all bids are unsatisfactory, they may reject all of them and readvertise and in such case all checks, cash, or bid bonds shall be returned to the bidders. If such contract be let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for the purchase of such materials or doing such work, and a bond to perform such work furnished with sureties satisfactory to the Board in the full amount of the contract price between the bidder and the commission in accordance with bid. If said bidder fails to enter into said contract in accordance with said bid and furnish such bond within ten (10) days from the date he is notified that he is the successful bidder, the said check, cash or bonds and the amount thereof shall be forfeited to the Sewer and Water District.

In the event of an emergency when the public interest or property of the Sewer and Water District would suffer material injury or damage by delay, upon resolution of the Board, or proclamation of an official designated by the Board to act for the Board during such emergencies, declaring the existence of such emergency and reciting the facts constituting the same, the Board, or the official acting for the Board, may waive the requirements of this Chapter with reference to any purchase or contract.

**16.01.184 Comprehensive Plan**

The facilities plan adopted by the Council shall serve as the initial Comprehensive Plan of the District for the provision of sewer services. Any additions to the system of

sewage treatment which shall be proposed by the Board, including extension of any lines, expansion of any treatment plants, or similar additions, shall be accompanied by an amendment to the facilities plan. This amendment shall include, but not be limited to, provision

(a) for the treatment of sewages, industrial, and other liquid wastes which may be generated or expected to be produced within the area to be served by the addition;

(b) for the acquisition or construction and installation of laterals, trunk sewers, intercepting sewers, siphons, pumping stations, treatment plants or expansions, or other sewage collection or treatment facilities; and

(c) for the methods of distributing the costs and expenses of the additions against the District and the property with the District, whether by general levy or through a local improvement district. A similar plan shall be developed by the Board covering the water system. In developing the plan and any amendments, the District shall conduct public hearings on the proposed plan or amendments. The Board may employ such legal and engineering services as they deem necessary in carrying out the purposes of this section. The amendment to the facilities plan shall be submitted and approved by the Council before becoming effective.

#### **16.01.185 Insurance**

The Board may purchase such liability insurance with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties. The term "officials" shall include the members of the Board. The officials and employees of the District shall enjoy the same immunity from suit as enjoyed by officials and employees of the Council.

#### **16.01.186 Budget**

On or before October 1, of each year, the

Board shall adopt a budget for the forthcoming twelve (12) months. The Budget shall include anticipated revenues from all sources and all anticipated expenditures, amortization and depreciation, capital and miscellaneous expenditures. The budget shall be adopted by resolution and submitted to the Council. Upon proper consideration, the budget may be amended by resolution and the amendment submitted to the Council. Unless the Council shall disapprove the budget within ten (10) calendar days, it shall be approved. The Council may disapprove any portion or all of the budget, but those portions not disapproved shall be deemed approved. The Board may expend funds within an approved budget through procedures adopted by the Board in its administrative code.

#### **16.01.187 Administrative Code**

The Board may adopt by resolution an administrative code setting forth the procedures, requirements, and methods by which the powers and duties of the Board are to be exercised and carried out.

#### **16.01.188 Indemnification**

Each Sewer and Water Board member or employee who was or is threatened to be made a named defendant or respondent in a threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, shall be indemnified for all expenses incurred in good faith in such action, suit, or proceeding, so long as the member's or employee's actions leading to his or her being named in the action, suit, or proceeding arose out of his or her actions under this ordinance. The Board shall have the power to reimburse or advance the costs and expenses, of any employee or member, incurred in appearing as a witness in any suit, action, or proceeding, even when the member or employee has not, is not, or is never made a defendant, or respondent in such action, suit, or proceeding; provided, that such reimbursement shall be made only by resolution of the Board. A member or employee shall not be indemnified for costs in any action, suit, or proceeding charging improper personal benefit to him or her, whether or not involving action in his or her official capacity, in which he or she shall be



adjudged liable on the basis that personal benefit was improperly received by him or her. A member or employee shall be indemnified only if he or she conducted him or herself in good faith; and

(a) in the case of conduct in his or her own official capacity, he or she reasonably believed his or her conduct to be in the District's best interests; or

(b) in all other cases, he or she reasonably believed his or her conduct to be at least not opposed to the District's best interests; or

(c) in the case of any criminal proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful.

Indemnification shall include payment of any damages assessed against a member or employee by a court or administrative agency. Any indemnification under this section shall be reported in writing to the Lummi Indian Business Council at its meeting immediately following the action of the Board.

#### **16.01.189 Indemnification-Consultants**

The Board may extend the indemnification provisions of Section 16.01.188 to independent contractors who sign a written contract with the Board; provided that, said contract shall provide for special rates and charges to the District in exchange for the extension of the indemnification of Section 16.01.188. No such contract shall be entered into with a consultant or contractor whose duties include actual construction of facilities for the District.

#### **16.01.190 Conflict of Interest**

No member of the Board shall participate in any decision in which the interest of that member, either pecuniary or otherwise, shall be different from any other person served by the Board, provided that this section shall not prohibit a member from participating in the formation of a Utility Local Improvement District, or an amendment to the Facilities Plan which shall involve land upon which the residence of the member is located.

### **Chapter 16.02 Manager and Finances**

#### **16.02.010 Manager and Employment**

The Board shall have the authority to hire a manager who shall have the following duties:

(a) The manager shall be responsible for daily operations of the District and its projects.

(b) The manager shall be responsible for employing, directing, training and discharging all employees under his charge. All salaries and wages shall be an expense of the District and will be in accordance with pay scales approved by the Business Council and the Board.

(c) The manager shall have the power to direct purchasing and sales within limits set by the Board.

(d) The manager shall be responsible for planning, development and operations as directed by the Board and under the provisions of this Ordinance.

(e) The manager shall be responsible for income and expenditures, budgeting and accounting for the District.

(f) The manager shall be required to make periodic reports to the Board and to the Business Council.

(g) The manager shall be responsible for those other matters assigned him by the Board.

(h) Where this ordinance requires the manager to perform a duty, he may delegate that duty to a member of the District staff.

#### **16.02.020 Depository**

The depository of the District shall be a separate commercial account or accounts in any bank selected by the Board and approved by the Business Council. Said account shall be in the name "Lummi Tribal Sewer District". Said accounts shall be insured by an agency of the United States.

#### **16.02.030 Receipts and Disbursements**

Disbursements will be made by the bonded official or employee designated by the Board.

Disbursements will be made by check upon presentation of invoices or vouchers. The checks shall be countersigned by either the Chairman, or the Treasurer of the Board, or the official designated as a signator by the Board by resolution or in the Administrative Code. The Chairman, Treasurer, Manager, and other signator, if any, shall be bonded. Cash receipts will be deposited, intact as to amount, in the depository promptly. Receipts will be issued for all cash received and copies filed and retained for accounting purposes.

#### **16.02.040 Records and Accounts**

Separate accounting records for the District shall be maintained in accordance with generally accepted accounting principles and in a manner satisfactory to the Council. The records and accounts shall be made available to the Council upon request.

#### **16.02.050 Audits and Reports**

The accounts of the District will be audited annually at the close of the fiscal year at the expense of the District. Annual and periodic reports will be submitted by the District to the Council.

#### **16.02.060 Insurance**

Fire and other insurance on property owned by the District or on property in which the District has an insurable interest, shall be in amounts and type of coverage specified by the Board. Insurance may be a part of Tribal insurance policies, with the expense thereof pro-rated to the District if so directed by the Council.

#### **16.02.070 Fiscal Year**

The fiscal year of the District shall be the same as the fiscal year of the Council.

#### **16.02.080 Leasing or Management of Lands**

Authorized members of the Board may negotiate leases with individual owners of allotted trust lands for leasing privileges under mutually agreeable terms. Final action on and authority to execute leases on behalf of the District must be approved by the Board and the Council before becoming effective. No lands may be purchased by the District within the boundaries of the Lummi Indian

Reservation without the prior approval of the Council.

#### **16.02.090 Petty Cash Fund**

A Petty Cash Fund is authorized to be established in the amount of \$500.00. This amount may be increased subject to the approval of the Board. This fund may be used to pay small expenses, when necessary, and to pay small obligations when it is not feasible to pay by check on the official depository. The fund may be reimbursed periodically from the official depository of the District in the amount of and upon the submittal of receipts, vouchers, and statements signed by the payees, of their proof of expenditure. Petty Cash reimbursement vouchers shall be certified by the Manager.

#### **16.02.100 Physical Inventory**

A physical inventory of all equipment and property of the District shall be made on the last day of business of the fiscal year of the District and at such other times as may be directed by the Board. Small tools, consumable, and items whose cost is less than \$50.00 shall not be classified as equipment for inventory purposes, so long as their useful life is less than one year.

#### **16.02.110 Ownership**

All the assets acquired by the District shall belong to the Council on behalf of the Lummi Tribe and shall be operated by and managed for the benefit of the District.

### **Chapter 16.03 Definition of Terms**

#### **16.03.010 General**

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as set forth in this Chapter.

#### **16.03.020 Acceptance**

“ACCEPTANCE” when used in connection with the construction of improvements for the District either through direct contract or through a developer extension agreement, shall mean the action of the Board formally recognizing the transfer of the improvement from the contractor or developer to the District. An acceptance may be with or without conditions or contingencies.

**16.03.030 Board**

"BOARD" shall mean the five-member Lummi Tribal Sewer or Water District Board serving as the Administrative Board of the Lummi Tribal Sewer or Water District. This Board shall be subordinate as defined in Article VI, Section 1(p) of the Constitution and By-Laws of the Lummi Indian Tribe.

**16.03.040 B.O.D.**

"B.O.D." (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius, expressed in parts per million by weight.

**16.03.050 Building Drain**

"BUILDING DRAIN" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

**16.03.060 Building Sewer**

"BUILDING SEWER" (or side sewer) shall mean the extension from the building drain to the public sewer or other place of disposal, beginning two and one-half feet outside the foundation wall.

**16.03.070 Council**

"COUNCIL" shall mean Lummi Indian Business Council.

**16.03.080 Developer or Owner Extension**

"DEVELOPER EXTENSION" shall mean a facility contracted by any person or entity under an agreement with the District, that the facility when constructed according to the District's standards, shall be connected to the District's system and ownership transferred to the District. An "OWNER EXTENSION" shall mean an existing improvement which has been in service for some time and which is now proposed to be transferred to the District. An owner extension need not meet the District standards for new construction, but the District shall be under no obligation to

accept such a facility, and may condition acceptance on whatever terms it deems appropriate. Developer or Owner Extensions shall be the subject of contracts between the District and the applicable owner or developer on such terms as may be agreeable to the District. Such contracts may provide for "latecomer charges" as a means of reimbursing the owner or developer for a portion of the costs of the system which are of benefit to persons other than the original builder.

**16.03.090 District**

"DISTRICT" shall mean Lummi Tribal Sewer or Water District.

**16.03.100 District Clerk**

"DISTRICT CLERK" shall mean such person as the Board shall designate as the Clerk of Lummi Tribal Sewer or Water District. The Clerk may not be the same person as the manager.

**16.03.110 Duplex**

"DUPLEX" shall mean a two-family dwelling, namely a building containing not more than two kitchens, designed and/or used to house not more than two families living independently of each other and including all necessary household employees of each such family.

**16.03.120 Engineer**

"ENGINEER" shall mean the person designated by the Board to perform engineering services for the District, or his authorized assistants, representatives or employees.

**16.03.130 Facility**

"FACILITY" shall mean any object, item or system used in connection with the collection, transmission, treatment or disposal of sewage, or the appropriation, withdrawal, treatment, transmission or distribution of water.

**16.03.140 Garbage**

"GARBAGE" shall mean solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.



**16.03.150 Industrial Wastes**

"INDUSTRIAL WASTES" shall mean the liquid and solid wastes from industrial processes.

**16.03.160 Latecomer's Agreement**

"LATECOMER'S AGREEMENT" shall mean an agreement between the District and the owner or builder of a facility transferred to the District whereby the District agrees to collect from persons connecting to the facility in the future a portion of the cost of the facility, and to reimburse to the original builder or owner the collected costs, less the District's fees and expenses.

**16.03.170 Licensed Sewage Disposal Cleaner**

"LICENSED SEWAGE DISPOSAL CLEANER" shall mean any contractor who is duly licensed under this Ordinance to pump out private sewage disposal systems within the District and to dispose of the waste material.

**16.03.180 Licensed Sewage Disposal System Designer**

"LICENSED SEWAGE DISPOSAL SYSTEM DESIGNER" shall mean any contractor who is duly licensed under this Ordinance to conduct soil percolation tests and design subsurface disposal systems within the District.

**16.03.190 Licensed Side Sewer Contractor**

"LICENSED SIDE SEWER CONTRACTOR" shall mean any contractor who is duly licensed under this Ordinance to construct, install, repair, reconstruct, excavate or connect any building sewer to the public sewers of the District.

**16.03.200 Manager**

"MANAGER" shall mean the manager of the Lummi Tribal Sewer or Water District, as designated by the Board, or their authorized deputy, agent, or representative.

**16.03.210 Multiple Dwelling**

"MULTIPLE DWELLING" shall mean a multiple family dwelling, namely, a building

designed and/or used to house two or more families living independently of each other and including all necessary household employees of each such family; and shall also include trailer parks and trailer courts, and each trailer or stall shall be deemed a separate unit.

**16.03.220 Natural Outlet**

"NATURAL OUTLET" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

**16.03.230 Owner**

"OWNER" shall mean the legal owner of deeded property or the tenant on Tribal or allotted lands, or the beneficial owner of land held in trust by the United States.

**16.03.240 Person**

"PERSON" shall mean any individual or firm, company, association, society, corporation or group.

**16.03.250 pH**

"pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**16.03.260 Private Sewage Disposal System**

"PRIVATE SEWAGE DISPOSAL SYSTEM" shall mean any privately owned and maintained system which holds, treats, and disposes of sewage within the boundary of a lot or parcel. Such systems include but are not limited to privies, septic tanks, and cesspools.

**16.03.270 Properly Shredded Garbage**

"PROPERLY SHREDDED GARBAGE" shall mean the garbage which has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-twelfth inch in any dimension.

**16.03.280 Public Sewer**

"PUBLIC SEWER" shall mean a sewer which is owned or controlled by the District.

**16.03.290 Sanitary Sewer**

"SANITARY SEWER" shall mean a sewer which carries sewage and into which storm, surface and groundwaters are not intentionally admitted.

**16.03.300 Sewage**

"SEWAGE" shall mean a combination of water-carried wastes from dwellings, business buildings, institutions, industrial establishments and other sewer users.

**16.03.310 Sewage Treatment Plant**

"SEWAGE TREATMENT PLANT" shall mean all facilities for collection, pumping, treating and disposing of sewage.

**16.03.320 Sewage Works**

"all facilities for collecting, pumping, treating and disposing of sewage.

**16.03.330 Sewer**

"SEWER" shall mean a pipe or conduit for carrying sewage.

**16.03.340 Sewer Stub**

"SEWER STUB" shall mean a public sewer constructed by the District, or with its permission, to the property line of the lot or parcel being served by the public sewer, and to which the building sewer may be connected.

**16.03.350 Single Family Dwelling**

"SINGLE FAMILY DWELLING" shall mean any structure including a condominium, trailer, or mobile home, designed for occupancy by a single family.

**16.03.360 Standard Participation Contract**

"STANDARD PARTICIPATION CONTRACT" shall mean the form of contract required by this Ordinance to be entered into before a property may connect to or use a public sewer of the District.

**16.03.370 Structure**

"STRUCTURE" shall mean anything constructed or erected, the use of which required location or attachment to something having location on the ground, including but not limited to trailers and house trailers, but

not including fences and walls.

**16.03.380 Suspended Solids**

"SUSPENDED SOLIDS" shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

**16.03.390 Watercourse**

"WATERCOURSE" shall mean a channel in which a flow occurs, either continuously or intermittently.

**16.03.400 Shall - May**

"SHALL" is mandatory; "MAY" is permissive.

**16.03.410 Gender and Plurals**

The use of one gender herein shall include the other and the use of the singular or plural shall include the other.

**16.03.420 Definitions not Exclusive**

The definitions found in this Article shall not be exclusive. Terms used in this Ordinance may be defined in other Articles. Where a term is not defined it shall be given its usual and ordinary meaning.

**Chapter 16.04 Use of Public Sewer Required****16.04.010 Unlawful Deposit of Waste**

It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon any property within the boundaries of the District, or in any area under the jurisdiction of the District, any human or animal excrement, garbage, or other objectionable waste.

**16.04.020 Treatment of Sewage Required**

It shall be unlawful to discharge into any natural watercourse within the District, or in any area under the jurisdiction of that District, any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this Ordinance.

**16.04.030 Unlawful Sewage Disposal Facilities**

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, septic tank, cesspool or other facility intended or used for the disposal of sewage in the District, except as provided in Chapter 16.05.

**16.04.040 Toilet Facilities and Sewer Connection Required - Time, Manner, & Repair**

The owner of each lot or parcel of real property within an area served by the sewage works of the District, upon which lot or parcel of real property there shall be situated any house, building, or structure for human occupancy, employment, recreation or other purpose or use abutting on any street, alley, easement or right-of-way in which there is now located, or may in the future be located, a public sewer of the District, and where a public sewer is within 200 feet of any single or multiple-family dwelling on that lot or parcel and to which service by such public sewer is available, is hereby required, at his expense, to install suitable toilet facilities therein and to connect such facilities directly with a proper public sewer, in accordance with the provisions of this Ordinance. Such installation and connection must be made within 30 days after the date of mailing or personal service of notice by the Board addressed to the owner of the property to be served notifying such owner to make such connection unless such time shall be extended by the Board. All connections to the public sewers of the District shall be made in a permanent and sanitary manner and shall be sufficient to carry all the sewage and waste foods of every kind from the house, building and/or structure into the public sewer, and each toilet, sink, stationary washstand, washing machine, dishwasher and other piece or type of equipment having waste fluid, shall be connected with the public sewer.

No drain of any kind, including curtain, basement or roof drains and downspouts, which is designed to and does carry storm run-off shall be connected to the public sewer.

Any building or structure hereafter constructed or made available for human occupation and

use for any purpose shall, when required by this Section, be connected to a public sewer of the District before the completion of the construction of such building or structure or before any occupancy or use thereof, or (in the event that a public sewer capable of serving that building or structure has not been completed by the District prior to the construction or occupancy of such building or structure) within 30 days after written notification from the Board as aforesaid, whichever event first occurs.

Any needed repair to a building sewer or connection to a public sewer shall be made within 30 days after the date of mailing or personal service of a notice by the manager to the owner of the property served notifying such owner to make such repair. In the event of an emergency, the manager may establish a shorter period of time for the repair to be made or, if the owner cannot be located or does not promptly make such repairs, the District may make the repairs under the procedure of Section 16.04.050.

**16.04.050 Failure to Connect or Repair Building Sewer**

If any connection to a public sewer, or if any needed repair to a building sewer or connection to a public sewer, shall not be made within the time and in the manner provided in section 16.04.040 the Board may forthwith apply to the Tribal Court for an order causing such connection or repair to be made by the Board. Such order may be issued only after proper notice to the owner stating that there will be a hearing before the court on the matter. If the owner cannot be located, this notice may be affixed to the building in question.

Upon making the necessary connection or repair, the Board shall certify the amount of the cost of making such connection or repair and may also file a declaration of lien with the Treasurer and Auditor of Whatcom County, or with the Western Washington Indian Agency, Bureau of Indian Affairs, or its successor administrative body. Upon such filing, the cost together with a penalty of fifteen percent (15%) of the cost plus interest at 1% per month, upon the 15% amount, compounded

annually shall become a lien against the property, provided that, liens against trust land shall affect only the beneficial interest in the use and occupation of the land, and shall not affect or touch and concern the fee of the land, and provided further, that liens filed under this section shall be subject only to the lien for general tribal taxes.

**16.04.060 Property Capable of Being Served by Sewer: Availability of Public Sewer**

All property shall be deemed capable of being served by a public sewer of the District, and service shall be deemed available if the property contains within its boundaries an inhabitable dwelling and the dwelling is within 200 feet of a public sewer as required by section 16.04.040, even if the drains from the structure are of an elevation such that they may not drain by gravity to the public sewer in accord with section 16.06.010. In such case, it shall be the responsibility of the owner to provide a pumping system approved by the manager. Such pumping system may include installation of a solids pump or an effluent pump at the discretion of the manager.

**16.04.070 New Construction**

No new construction shall be permitted which does not use the public sewer unless the owner shall execute an agreement with the Board in which the owner shall

(a) promise to connect to the public sewer as soon as the same becomes available for connection as defined in 16.04.060 hereof; and

(b) agrees to participate in, support, and become a part of, any local improvement District or utility local improvement District which shall be formed to serve the property or any part thereof; and

(c) agrees to pay any and all charges associated with the extension of the sewer system to the property or any part thereof.

**16.04.080 Connection Priority**

After the initial connections to the system, or in any case after January 1, 1984, all connections to the system shall be made on a first come first serve basis, without regard to

the race, color, creed, religion, or tribal membership of the owner, provided that no connection shall be made until the Lummi Planning Department shall certify that the structure to be connected is in present compliance with applicable tribal zoning, subdivision, building, plumbing, electrical, construction, or other health and safety codes and ordinances as adopted by the Lummi Nation.

**Chapter 16.05 Private Sewage Disposal**

**16.05.010 Private Sewage Disposal Allowed**

Where a public sanitary sewer is not available for use as provided in section 16.04.040 and 16.04.060 and that is so certified by the Board, the building sewer may be connected to a private sewage disposal system or replacement thereof, any of which must comply with the terms and conditions of this Ordinance.

**16.05.020 Private Sewage Disposal: Permit Required**

It shall be unlawful to construct or install or make repair on a sewage disposal system without having first obtained a permit from the manager.

**16.05.030 Private Sewage Disposal Permits: Procedure for Obtaining**

Private sewage disposal permits shall be obtained in the following manner:

(a) Private sewage disposal permits shall be issued only upon proper application at the office of the District.

(b) A permit which includes work on private property only may be issued to the owner of the property or to a licensed side sewer contractor.

(c) The application for a private sewage disposal permit shall supply the manager with the following information:

- (1) Owner's name.
- (2) Address to be served.
- (3) Owner's mailing address.



(4) Licensed side sewer contractor's name.

(5) Legal description of property to be served.

(6) The area, in square feet, of living space, number of bedrooms, and in the case of commercial buildings, the type and number of sanitary facilities.

(7) A complete dimensional plot sketch drawn to scale showing any present or proposed structures, the location of any source of potable water within 200 feet from any point of sewage disposal, location of domestic water lines, and the direction of surface drainage.

(8) Any other information requested by the manager (such as, but not limited to, soil test holders, and percolation tests) which is reasonable and relevant to a determination as to the adequacy of the proposed installation or alteration.

(d) After review and approval by the Whatcom County Public Health authorities or the Indian Health Service, if the application is otherwise in order and the proposed sewage disposal system appears to be in compliance with this Ordinance, then the manager shall issue the permit. Any such permit shall be subject to the terms and conditions of section 16.04.020 of this ordinance, regardless of whether it involves new construction or the renovation or repair of an existing septic system. The District may require the applicant to execute and record an agreement in the form of a covenant binding the property and running to the benefit of the District. If the permit is denied, an appeal may be made as provided in Section 16.14.

(e) A permit shall expire within one (1) year from the date of issuance.

#### **16.05.040 General Standards**

Any existing, or proposed, private sewage disposal system is inadequate and a violation of this Ordinance if the contents and/or discharge to or from the system

(a) violate any regulations of the appropriate federal agencies governing water pollution or the disposal of sewage or liquid-borne waste;

(b) contaminate any drinking water supply;

(c) pollute or contaminate, directly or indirectly, any surface or groundwater within the jurisdiction of the Lummi Tribe or affect the health, safety or security of any resident of the Lummi Reservation, or deleteriously affect the fisheries of the Lummi Indian Tribe;

(d) create a health hazard by the contents or effluent being accessible to people, animals, insects, or other possible carriers of disease;

(e) give rise to a nuisance due to odor or unsightly appearance;

(f) serve a structure which is located within two hundred (200) feet of a public sewer collector system.

#### **16.05.050 Requirements for Construction or Alteration**

A new or altered private sewage disposal system shall be presumed to be inadequate and a violation if

(a) the contents are discharged directly or indirectly to the surface or groundwater;

(b) the absorption field is installed in a parcel of land wherein the soil does not have at least five (5) feet of original permeable soil over any impervious material and/or the average groundwater during the wet season is within 5 feet of the ground surface. If a high groundwater level is probable, approval for a sewage disposal permit may be withheld until a site inspection can be made between December first and May first;

(c) any portion of the absorption system is installed within 100 feet, measured horizontally from the average high water level during the wet season of the year, or the mean high tide level;

(d) the system has down spouts, footing drains or groundwater drainage systems linked directly or indirectly to the disposal systems;

(e) the system is constructed or installed in a manner that allows surface or groundwater to interfere with the operation of the system;

(f) the system is located within 10 feet of any potable water pressure supply line or within five (5) feet of any building, tree or property line;

(g) the sewage disposal system is located on a parcel of land too small to accommodate an absorption field double the minimum required area;

(h) the system for a single-family dwelling is located on a parcel of land smaller than set forth in Table I;

(i) the system for dwellings other than single-family is located on a parcel of land smaller than set forth in Table II;

(j) the absorption drain lines are located within 100 feet of any shallow well water supply;

(k) the combination of a shallow well and private sewage disposal system is located on a single lot of less than one acre;

(l) cesspools or seepage pits are used.

#### **16.05.060 Design, Construction, and Installation Standards**

The general requirements for the design, construction, installation, or alteration of private sewage disposal systems shall be as set forth in the Uniform Plumbing Code as adopted by the Lummi Indian Business Council, or such other building code as adopted by the Lummi Indian Business Council, or such other standards as are adopted by the District, provided, that in the case of conflict between the standards adopted by the District and other standards, the standard most protective of the public health shall be enforced.

#### **16.05.070 Installation and Alteration: Who May Perform**

Private sewage disposal systems can be installed or altered only by the property owner

or by a licensed side sewer contractor as described in chapter 16.11 of this Ordinance.

#### **16.05.071 Tables**

**TABLE 1**  
**Single-Family Dwelling Lot Sizes for Private Sewage Disposal**

Soil Percolation Rate	Lot Size (Public Water)	Lot Size (Private Water)
Less than 5 minutes/inch	1 Acre	2 Acres
5 to 9 minutes/inch	15,000 sq. ft.	1 Acre
10 to 19 minutes/inch	18,000 sq. ft.	1 Acre
20 to 29 minutes/inch	20,000 sq. ft.	2 Acres
Over 30 minutes/inch	Unacceptable	Unacceptable

**TABLE 2**  
**Dwelling Lot Sizes for Other than Single-Family Using Private Sewage Disposal**

Soil Percolation Rate	Multiple Family Dwelling Per Bedroom	Mobile Home Parks Per Space
Less than 5 minutes/inch	14,520 sq. ft.	29,040 sq. ft.
5 to 9 minutes/inch	5,000 sq. ft.	10,000 sq. ft.
10 to 19 minutes/inch	6,000 sq. ft.	12,000 sq. ft.
20 to 29 minutes/inch	6,667 sq. ft.	13,333 sq. ft.
Over 30 minutes/inch	Unacceptable	Unacceptable

#### **16.05.080 Private Sewage Disposal Systems Cleaner's License**

All septic tanks will be pumped and cleaned by a licensed septic tank pumper. Such parties must show that they are capable of doing the work in a satisfactory manner and that they have a suitable site for disposing of the material by underground burial or other means acceptable to the Board.

(a) Application for a cleaner's license shall be

made on forms provided by the District. License and/or application fees shall be payable to the District.

(b) The District shall determine by written and/or oral examination the applicant's knowledge of public health problems arising

from the handling of sewage and the safe disposal of the cleanings of sewage disposal systems. If the applicant does not receive a passing mark of 70% he shall be denied a license.

(c) The applicant's equipment shall meet the requirements of sections 16.05.080(h) and 16.05.080(i) before a license may be issued.

(d) A cleaner's license shall expire on December 31 of each year. An application for relicensing shall be made on forms provided by the District within the thirty (30) day period immediately preceding the expiration of any license.

(e) The District may suspend or revoke any cleaner's license if there has been finding of incompetency, negligence, willful misrepresentation or failure to comply with this Ordinance or other applicable laws, rules and regulations.

(f) Prior to the issuance of a sewage disposal system cleaner's license, the applicant must provide a surety bond approved as to form by the District in a sum of two thousand dollars (\$2,000.00) running to the Lummi Tribal Sewer District and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of such cleaner, executed by a surety company authorized to do business in the State of Washington. The bond shall be conditioned that the holder of the license and his agents in performing work governed by this Ordinance shall exercise all reasonable care and skill and shall comply with all the terms and conditions of this Ordinance. The bond must be kept in effect during the period of time for which the license is issued and cancellation of the bond shall automatically suspend the license.

(g) An applicant whose license has been revoked shall be ineligible to reapply for a

license until sixty (60) days shall have passed from the date of this license revocation.

(h) The sewage disposal system cleaner's pump tank shall be fully closed and water-tight. The tank outlet devices shall have a locking device properly placed to ensure sanitary dumping and to prevent any spillage or leakage of sewage disposal system cleanings. All equipment used by a sewage disposal cleaner shall be constructed of readily cleanable material and shall be kept in a clean and sanitary condition.

(i) Each vehicle used by a licensed sewage disposal system cleaner for cleaning of sewage disposal systems shall be identified with a sign reading, "Lummi Tribal Sewer District License # \_\_\_\_\_." The letters and numbers of said sign shall be affixed on both sides of each vehicle, at least one (1) inch in height and in a contrasting color to the vehicle color.

(j) A licensed sewage disposal system cleaner shall keep records of each system cleaned. The record shall include the owner or agent's name, the location of the system and the site of dumping. These records shall be made available to the District upon their request.

#### **16.05.090 Designer's License**

It shall be unlawful to engage in the business of designing sewage disposal systems, or parts thereof, without a designer's license, or registration as a civil engineer.

(a) Application for a designer's license shall be made on forms provided by the District. License and/or application fees shall be payable to the District.

(b) The District shall determine by written and/or field examination the applicant's knowledge of public health problems involved in the disposal of sewage and necessary standards of design, construction and installation. If the applicant does not receive a passing mark of 70% in any such examination, he shall be denied a license.

(c) A designer's license shall expire on December 31 of each year. An application for



relicensing shall be made on forms provided by the District within the thirty (30) day period preceding the expiration of any license.

(d) The District may suspend or revoke any designer's license if there has been a finding of incompetency, negligence, willful misrepresentation, or failure to comply with this Ordinance or other applicable laws, rules and regulations.

(e) Prior to the issuance of a designer's license, the applicant must provide a surety bond approved as to form by the District in a sum of five thousand dollars (\$5,000.00) running to the District and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of such design, executed by a surety company authorized to do business in the State of Washington. The bond shall be conditioned that the holder of the license and his agents in performing work governed by this Ordinance shall exercise all reasonable care and skill and shall comply with all the terms and conditions of this Ordinance. The bond must be kept in effect during the period of time for which the license is issued and cancellation of the bond shall automatically suspend the license.

(f) An applicant, whose license has been revoked, shall be ineligible to reapply for a license until sixty (60) days shall have passed from the date of his license revocation.

#### **16.05.100 Fees**

Fees shall be set and renewed annually by the Board and posted in a fee schedule.

### **Chapter 16.06 Building Sewer and Water Line Connections**

#### **16.06.010 Non-Authorized Connections, Disturbances, Etc. of Public Sewer Forbidden**

No person other than representatives of the District shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or water line or appurtenance thereof without first obtaining a written permit from the manager.

#### **16.06.020 Building Sewer and Water Line Permits**

There shall be three (3) classes of building sewer or water line permits:

- (a) for residential services;
- (b) for commercial services;
- (c) for service to establishments producing industrial wastes.

In each case, the owner or his agent shall make application on a special form furnished by the District. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the manager, including in case of a new building a plan or diagram of plumbing and drainage facilities.

#### **16.06.030 Building Sewer Permits: Procedure for Obtaining**

Building sewer permits shall be obtained in the following manner:

- (a) Building sewer permits shall be issued only upon proper application at the office of the District.
- (b) A permit which includes building sewer or water line work in a public area may be issued only to a licensed side sewer or water line contractor.
- (c) A permit which includes building sewer or water line work on private property only may be issued to the owner of the property or to a licensed side sewer or water line contractor.
- (d) No licensed side sewer or water line contractor shall lay any pipe pursuant to any other person's permit nor shall any unauthorized person lay any pipe pursuant to a licensed side sewer or water line contractor's permit.
- (e) The applicant for a building sewer or water line permit shall supply the manager with the following information:

- (1) Owner's name.

- (2) Address to be served.
  - (3) Owner's mailing address.
  - (4) Name and address to which bills shall be mailed.
  - (5) Licensed side sewer or water line contractor's name.
  - (6) Legal description of property to be served.
  - (7) All outside dimensions of buildings to be served.
  - (8) Location of buildings on property to be served.
  - (9) Purpose of building. And,
  - (10) Full course of the proposed side sewer or water line.
- (f) No permit will be issued for side sewer or water line connections before the public sewer or water line is accepted by the District.
- (g) The permit card must be posted on the job and must be readily accessible to the inspector for the District.
- (h) A licensed side sewer or water line contractor shall meet with the inspector on the job whenever so directed.
- (i) No sewer or water line permit shall be transferable to another side sewer or water line contractor.

#### **16.06.040 Side Sewer or Water Line Contract**

A side sewer or water line contract between owners and a licensed side sewer or water line contractor shall be subject to the following requirements:

- (a) The contract between the owner and the licensed side sewer or water line contractor shall provide that the side sewer or water line contractor shall connect all outlets from plumbing fixtures existing at the time the work is done unless specifically noted

otherwise on the approved permit application.

- (b) The contractor shall, when requested by the owner, furnish the owner with a release of lien or claims of both labor and material or with an affidavit stating the same have been paid before payment is accepted for the side sewer or water line work.

#### **16.06.050 Wyes, Tees, Stubs: Location, Inspection Riser**

Wyes, tees and stubs shall be located in the following manner:

- (a) Connection will be made at the point designated by the manager.
- (b) If a side sewer or water line tee or stub is not found at the measurement given by the manager, the contractor shall prospect three (3) feet in all directions from the measurement given and if not found, then notify the manager. [Cross reference: See Policy on Stubs, Section 16.06.120]
- (c) Wyes may be used only if the manager permits and at a location approved by the manager.
- (d) An inspection tee with a riser to not less than one foot from the surface of the ground shall be placed on every building sewer at or near the connection to a common sewer, the location to be approved by the manager. The tee shall be capped with a cast iron cover. If the inspection tee is located on private property, the District shall have the right to enter onto that private property and excavate to the inspection tee at any time where there is reasonable doubt on the legal use of the building sewer, but the District shall restore the surface after such excavation.

#### **16.06.060 Costs of Building Sewer or Water Line Borne by Owner**

All cost and expense incident to the installation and connection of the building sewer or water line shall be borne by the owner. The owner shall indemnify the District from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer or water line.

**16.06.070 Building Sewer or Water Line For Each Building: Exceptions**

A single building sewer or water line shall be provided for every building unless the connection of more than one building to a single building sewer or water line is approved by the manager prior to the construction of such building sewer or water line. No more than one multiple dwelling, industrial or commercial building shall be connected to a building sewer or water line, unless otherwise approved by the manager. If the building sewer or water line is to exist on more than one building site, approved documents assuring that all properties involved shall have perpetual use of the side sewer or water line, and having provisions for maintenance and access for repair purposes, shall be signed by the record owners. This document shall be acknowledged and recorded with the County auditor.

**16.06.080 Reuse of Old Building Sewers**

Old building sewers, including septic tank lines, may be used only when they are found, on examination and test by the manager, to meet all requirements of this Ordinance. The owner or his agent shall demonstrate to the manager that no connection to such building sewer or septic tank line exists which conveys any material prohibited by chapter 16.09 of this Ordinance.

**16.06.090 Plumbing and Building Sewer: Specifications**

All building waste plumbing shall be constructed in conformance with the International Conference of Building Officials Uniform Plumbing Code as adopted by the Lummi Tribe. Building sewers (side sewers) shall be constructed of approved materials and shall conform to applicable provisions of the Washington Chapter of the American Public Works Association standard specifications or such other standard specifications as shall be in general use within the State of Washington.

All pressure side sewers shall be constructed of suitable air- and water-tight joint and conduit as approved by the District.

**16.06.100 Building Sewer: Size and Slope**

The size and slope of the building sewer shall

be subject to the approval of the manager, but in no event shall the diameter be less than four inches for single connections and six inches for multiple connections. The slope of such building sewers shall be not less than one-fourth inch per foot for four inch pipe or one-eighth inch per foot for six-inch pipe unless the depth of the public sewer requires a lesser slope and such lesser slope is approved by the manager.

**16.06.110 Building Sewer: Elevation and Direction**

Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid under any building or within two and one half feet of any foundation wall, unless the building sewer is constructed of cast iron pipe. The minimum depth of a trench shall be two feet. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe fittings, as approved by the manager. Fittings shall be used at all major changes of direction and cleanout shall be provided at such fittings.

Cleanouts shall also be provided at any bend that exceeds 22.5 degrees and cleanout shall be provided for every two bends which are 22.5 degrees or less. Whenever any building drain is constructed too low to permit gravity flow to the public sewer, sewage carried by such drain shall be lifted by approved artificial means and discharged to the public sewer at the owner's expense.

**16.06.120 Information From District**

The owner of any building shall be responsible for obtaining from the manager the location and elevation of the sewer or water line tee or sewer or water line stub at the point of connection and, in the case of new construction, for planning the building and plumbing to provide adequate slope for the building sewer. The applicant for permit shall be responsible for determining the available grade between building drain and sewer tee or stub. The District shall not be liable to the owner if the stub or tee is not located as shown on the District's plans. The District's sole responsibility to the owner shall be to accurately convey to the owner information

contained in the District's plans.

**16.06.130 Building Sewer or Water Line: Excavation and Pipe Laying**

All excavations required for the installation of a building sewer or water line shall be open trench work unless otherwise approved by the manager. Pipe laying and backfill shall be performed in accordance with the specifications of the District adopted as part of the Administrative Code. The specifications shall address pipe bedding, fill size, pipe orientation, timing of backfill, inspection requirements, and other technical matters in the discretion of the Board.

**16.06.140 Building Sewer or Water Line: Connection to Public Sewer or Water Line**

The connection of the building sewer into the public sewer or water line shall be made at the water main or sewer stub, if such stub is available at a suitable location. If no properly located stub is available, a tapping saddle may be used provided that the design of the tap shall be approved by the manager prior to installation and further provided that the tap shall not be covered over until installation is approved by the manager.

**16.06.150 Building Sewer: Inspection**

The applicant or his authorized agent for the building permit shall notify the manager when the building sewer or water line is ready for inspection. The applicant shall provide sufficient advance notice for each inspection as determined by the manager. All building sewers or side sewers shall be tested by a method prescribed by the manager. The test shall be performed by the applicant or his representative and the manager shall inspect and observe the testing. Proof that downspouts are not connected to building sewers may be established by watering roof gutters and observing flow through inspection tee or by any other test acceptable to the manager.

**16.06.160 Protection of Excavations: Restoration of Public Property**

All excavations for building sewer or water line installations shall be adequately guarded with barricades and lights so as to protect the

public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the District and/or the Whatcom County Engineer, when applicable.

**16.06.170 Unlawful Connections to Public Sewer or Water Line**

Any person who makes or causes to be made any connection to a public sewer or water line of the District without receiving a permit therefore or executing the standard participation contract provided by the District before such connection, shall be subject to the penalties set forth in chapter 16.12 and \$1000.00 in additional charges payable to the District.

**16.06.180 Private Sewers or Water Line: Conveyance to District**

A private sewer or water line constructed in a public right-of-way or in an easement conveyed to the District may be conveyed to the District subject to acceptance by the District. The District may also accept existing lines on such terms as it deems appropriate. If the District accepts a conveyance, the sewer or water line thereafter shall be a public sewer or water line under the jurisdiction of the District. Prior to accepting the conveyance, the District may require that the grantor of the private sewer or water line satisfy certain construction, and other reasonable standards, including, but not limited to, the payment of a connection charge and inspection fee, the execution of a standard participation contract, and the execution of an owner developer extension agreement.

**16.06.190 Connection of Outside Property**

The owners of property outside the boundaries of the District may, if the Board consents, connect to the District facilities and obtain service by entering into a standard participation contract, provided for by chapter 16.07 of this title.

**16.06.200 Building Sewer: Cost from Property Line to Public Sewer**

The cost of constructing that portion of the building sewer or water line between the main sewer or water line and the property line of a



public right-of-way or easement shall be borne by the District and the owner shall pay to the District such connection charge as established by this Ordinance.

#### **16.06.210 Disconnection of Building Sewer**

No structure may be disconnected from a building sewer, and no building sewer may be disconnected from a public sewer, for any reason without prior written notification to, and approval of, the District (acting through its manager). No approval shall be given unless the disconnection is lawful under this ordinance and other applicable laws, and satisfactory protection is given by the owner or his contractor to the public sewers and sewer works of the District, including but not limited to, the satisfactory capping of the building sewer or public sewer. Sewer service charges for any structure disconnected or to be disconnected shall continue until such disconnection is approved by the District and the building and public sewer capped and otherwise protected to the satisfaction of the manager. No dwelling which is habitable under the building codes as adopted by the Lummi Tribe and which has been connected to the public sewer pursuant to this Ordinance shall be disconnected from the public sewer.

### **Chapter 16.07 Standard Participation Contract**

#### **16.07.010 Standard Participation Contract: Eligibility**

Properties, either inside or outside of the District, may be connected to the public sewer or water lines of the District and served thereby, when the owner thereof executes a standard participation contract and the Board concurs therewith. Separate contracts may be used for water and sewer if these services are extended at separate times.

#### **16.07.020 Standard Participation Contract: Terms**

The standard participation contract shall provide the following:

(a) That the property owner warrants that he is the owner of that property or a tenant on Tribal or assigned lands or the beneficial

owners of land held in trust by the United States, with full authority to bind the property with the covenants and conditions contained in the contract.

(b) That the property owner shall subject his property to the terms of the contract and shall use the public sewer or water of the District in accordance with the rules and regulations of the District as they may be amended from time to time, and that the property shall be subject to the regular schedule of sewer or water service charges as may from time to time be fixed by the District for its use classification, and shall also be subject to the terms and conditions of this Ordinance and all amendments thereto.

(c) That the building or structure described in the contract shall be the only structure on the property served with sewer or water service pursuant to that contract.

(d) That the property subject to the contract shall be subject to liens, penalties and interest for nonpayment of sewer or water service charges to the same extent as any other property served by the District.

(e) The contract shall be filed for recording at the office of the Whatcom County Auditor and the Western Washington Indian Agency, Department of Interior, and shall constitute a charge against that property and a covenant running with the land and shall bind the property and all future owners thereof.

#### **16.07.030 Charges for Trunkage, Connection, Permit Fees, and Charges**

The standard participation contract shall provide that before the property shall receive sewer or water service, the property owner must pay to the District, such trunkage, connection and other charges as provided by this ordinance and the contract. The charge must be paid in full or such arrangement as the Board shall approve for time payments shall be agreed to before connection to the public sewers of the District is permitted. Any such arrangement shall also provide for interest to be charged upon the unpaid balance of the fees at a rate of one percent (1%) per month upon the unpaid balance compounded annually.

Failure to complete payment of the connection fee shall become a lien against the property. Instead of any charge the District, at the discretion of the Board, may accept from the property owner a sewer or water pipeline of sufficient value installed in an easement or public right-of-way, or some other performance reflecting value approximating the charge.

#### **16.07.040 Standard Participation Contract: Other Terms**

To protect the interests of the District, the Board may require other conditions and provisions to be inserted in the standard participation contract as the individual case may warrant.

#### **16.07.050 Developer's or Owner's Contracts**

The District may also enter into contracts with developers of real estate for construction of sewer or water facilities by such developers under sections 16.07.070 through 16.07.120 and such other terms and conditions as the Board deems proper. These sections shall govern all expansions of the sewer or water system which involve more than one connection.

#### **16.07.060 Sewer Extensions**

All sewer and water extensions to the District systems shall be designed by the District or by a qualified engineering firm approved by the District and all construction in progress shall be observed by the District. All extensions shall be constructed and tested in conformance with District standards and shall be tested in the presence of a representative of the District. Upon the successful completion of the work, all lines and other sewer and water facilities within the public rights-of-way and private easements required for such extensions shall be conveyed to the District. Easements, where required shall be granted to the District prior to acceptance of the work. The owner or contractor shall furnish to the District upon acceptance of the work, a one-year guaranty of the labor and materials installed; and this guaranty shall be insured by an adequate performance and indemnity bond. The Board shall adopt a standard procedure for developer extension agreements as a part of its

administrative manual.

#### **16.07.070 Review of Plans**

All design plans and specifications which are prepared by qualified engineering firms shall be submitted to the district for review. No construction shall be initiated prior to written approval of the plans and specifications by the District. Approval by the District shall in no way be a warranty of the adequacy of said plans and specifications by the District or relieve the applicant from providing functioning facilities constructed in accordance with applicable codes and standards.

#### **16.07.080 Minimum Plan Requirements**

The District shall adopt as part of its administrative code, minimum requirements for sewer or water plans which are to be submitted to the District for review. These standards shall include, but are not limited to, number of plan sets to be submitted, plat submission, location maps, contour maps, plan and profiles, road grades, etc.

#### **16.07.090 Minimum Construction Requirements**

The District shall adopt as part of its administrative code, minimum requirements for sewer or water construction for projects which are submitted to the District for review.

#### **16.07.100 Permits for Sewer Construction**

The applicant shall obtain all necessary permits at his own expense and shall pay all fees and connection charges (if applicable) before proceeding with construction.

#### **16.07.110 Fees for Design and Engineering**

Where extensions are to be designed by the District at the option of the applicant, fees for engineering and inspection and other services required to be performed by the District shall be in such sums as are agreed upon by the applicant and the owner, unless otherwise provided by regulations of the District.

#### **16.07.120 "As Built" Plans**

Upon completion and acceptance of such

construction, duplicate sets of plans and specifications indicating any deviations "as built" from plans and specifications previously submitted shall be submitted to the District by the applicant.

#### **16.07.130 Bill of Sale**

Transfer of ownership of such construction shall be evidenced by a bill of sale running from the developer-owner to the District.

### **Chapter 16.08 Sewer and Water District Charges and Fees**

#### **16.08.010 Charges and Fees**

Permit fees, connection charges, service charges, and other fees shall be charged by the District in such sums as the Board, with approval of the Business Council, shall fix by resolution from time to time in a manner consistent with all Federal statutes and regulations.

#### **16.08.020 Billings and Delinquent Charges**

Billings and delinquency charges shall be controlled by such resolutions as the District may enact from time to time.

#### **16.08.030 Rates and Charges - Classification of Service**

The Board shall provide for revenues by fixing rates and charges for the furnishing of sewage disposal service to those to whom the service is available. Such rates and charges may be combined for the furnishing of more than one type of sewer service, such as but not limited to, storm or surface water or sanitary. The Board shall also fix rates and charges for water service to those actually connected to the District's water system. Such rates and charges are to be fixed as deemed necessary by the Board, so that uniform charges will be made for the same class of customer or service. No distinction in rates and charges shall be made on the basis of race, color, creed, religion, or tribal membership of the owner of the property served, nor shall any distinction be made on the basis of ownership of land, whether fee, trust, tribally or individually owned.

In classifying customers served or service

furnished by the Board, the Board may in its discretion consider any or all of the following factors: the difference in cost of service to various customers, the location of the various customers within and without the District, the difference in cost of maintenance, operation, repair, and replacement of various parts of the system, the different character of service furnished various customers, the quantity and quality of sewage delivered or water consumed by the customer and its time of delivery, capital contributions made to the system, including but not limited to assessments, and any other matters which present a reasonable difference as a ground for distinction.

Such rates are to be made on a monthly basis and shall produce revenues sufficient to pay in a timely manner the costs of maintenance and operation, revenue bond and warrant interest, unbonded indebtedness, and principal amortization requirements, and all other charges necessary for efficient and proper operation of the system. Rates and charges shall be set by resolution of the Board.

#### **16.08.031 Stand By Charges Authorized**

The Lummi Sewer Board is authorized to impose a service availability fee, also known as a stand by charge, in an amount to be set by the Lummi Sewer Board for all property located adjacent to a gravity flow sewer collector line maintained by the District, and from which the owner or occupier of such property could obtain sewer service from the District upon request and compliance with the applicable provisions of this ordinance.

#### **16.08.040 Connection Fees**

The Board shall provide by resolution for connection fees. Connection fees shall be set sufficient to produce revenues sufficient to pay in a timely manner the outstanding obligations of the District at the time of initial commencement of operations by the District, one time costs incurred by the District in commencing operations, and such other expenses of the District as are necessary for efficient and proper operation of the system, including a reserve for depreciation of the system. No distinction in connection fees

shall be made on the basis of race, color, creed, religion or tribal membership of the owner or occupier of the property served, nor shall any distinction be made on the basis of ownership of the land, whether fee, trust, tribally or individually owned.

In classifying customers for connection fees, the Board may consider any or all of the following factors: difference in cost of construction, amortization and depreciation schedules for the portions of the system serving that property, capital contributions made to the system or portions thereof by the owners of surrounding property, and any other matters which present a reasonable difference, or ground for distinction in connection fees. The Board may provide for additional connection fees based upon a "latecomer's" schedule under which the fees are collected to reimburse a developer or the District for the construction of a specific portion of the system specially benefiting the property connecting to the system.

#### **16.08.050 Nature of Obligations and Remedies**

The fees and charges of the District, whether imposed for service available or delivered, for the privilege of connection to the system, or to defray the costs of construction or repair of the system, shall be a lien against the property so benefiting, and shall also be a joint and several personal obligation of the record owners of the property on the date the service is provided or billed. The District may collect its fees and charges by foreclosing its lien and by proceeding against any or all of the individuals personally liable, but when it shall have satisfied any judgment, it shall enter a satisfaction of judgment and thereby release the remaining defendants, if any, to the extent of such satisfaction. Any remedy used by the Board to collect any funds owed the Board or the District shall be applicable to all users within a class of users, without regard to the race, color, creed, religion, or tribal membership of the owner, and without regard to the status of the land involved, whether fee or trust, individually or tribally owned, provided that, lessees or occupiers of tribal land shall be deemed a separate class of users for the purpose of this section only.

#### **16.08.060 Collection of Charges - Lien**

The Board shall enforce connection charges, service fees, service availability fees, and other rates and charges imposed under this ordinance against property to which and its owners to whom the service is available and the charges are assessed, such charges being deemed charges against the property to which service is available. The Board may provide by Resolution that where charges and fees are delinquent for any specified period of time, that the District shall certify the delinquencies to the Treasurer and Auditor of Whatcom County in the case of fee patent land, and to the Puget Sound Agency, Bureau of Indian Affairs, or its successor administrative body, in the case of trust land, and the charge and fees and any interest and penalties added thereto shall be a lien against the property to which the service was available, subject only to the lien for general tribal taxes. Liens filed against trust land shall affect only the beneficial interest in the use and occupation of the land, and shall not affect or touch and concern the fee of the land.

#### **16.08.070 Foreclosure of Liens**

Any lien filed pursuant to this ordinance may be foreclosed if the charges and fees represented by the lien are delinquent for more than one hundred twenty days. The District shall initiate foreclosure action by civil action in the Lummi Tribal Court. The Court may allow, in addition to the costs and disbursements actually incurred by the District, a reasonable attorney's fee. The costs, including a reasonable attorney's fee, of the District incurred in any challenge to the jurisdiction of the Lummi Tribal Court shall be included in any judgment foreclosing the lien. The civil action shall be in rem against the property, and may be brought in the name of the District against an individual parcel, or against all of those parcels whose owners are delinquent for similar charges and fees. A judgment foreclosing a lien against trust property shall have effect only against the beneficial interest in the use and occupation of the land, and shall not affect or touch and concern the fee of the land.



## **Chapter 16.09 Use of the Public Sewer and Water Systems**

### **16.09.010 Unlawful Discharge of Storm and Other Waters into Sewers**

No person shall discharge or cause to be discharged any storm water, surface water, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

### **16.09.020 Unlawful Wastes**

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (a) Any liquid or vapor having a temperature higher than 150 degrees F.
- (b) Any water or waste which may contain more than 30 parts per million, by weight, of fat, oil, or grease.
- (c) Any gasoline, benzene, naptha, fuel oil, lube oil or other flammable or explosive liquid, solid or gas.
- (d) Any garbage that has not been properly shredded.
- (e) Any ashes, cinders, sand, mud, straw, shavings, metals, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer works.
- (f) Any waters or wastes having pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the District.
- (g) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.
- (h) Any waters or wastes containing

suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

- (i) Any noxious or malodorous gas or substance capable of creating a public nuisance.

### **16.09.030 Separators**

Grease, oil and sand separators shall be provided when, in the opinion of the manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients. Such separators shall be of a type and capacity approved by the manager and shall be so located as to be readily and easily accessible for cleaning and inspection. Grease and oil separators shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers, which when bolted in place shall be gastight and watertight.

### **16.09.040 Separators: Maintenance**

Where installed, all grease, oil and sand separators shall be maintained by the owner, at his expense, for continuously efficient operation at all times. A record of such maintenance shall be furnished to the manager upon request.

### **16.09.050 Forbidden Wastes: Preliminary Treatment and Approval**

The admission into the public sewer of any waters or wastes having

- (a) a five day B.O.D. greater than 300 parts per million weight; or
- (b) containing more than 350 parts per million by weight of suspended solids; or
- (c) containing any quantity or substance having the characteristics described in section 16.09.020;
- (d) having an average daily flow greater than two percent (2%) of the average daily sewage flow of the District; or

(e) any other substance or practice which is prohibited or regulated by the rules and regulations of the District as codified in the administrative code as presently existing or hereafter amended shall be subject to the review and approval of the manager. Where necessary in the opinion of the manager, the owner shall provide, at his expense, such preliminary treatment as may be necessary to

(f) reduce the B.O.D. to 300 parts per million by weight, and the suspended solids to 350 parts per million by weight; or

(g) reduce objectionable characteristics or constituents to within the maximum limits provided for in section 16.09.020; or

(h) control the quantities and rates of discharge of such water or wastes; or

(i) comply with any other restrictions imposed by the District.

Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the manager and the appropriate federal agencies when required by law, and no construction of such facilities shall be commenced until such approvals are obtained in writing. Any expenses incurred by the District in reviewing such plans, specifications and information shall be paid by the property owner or his representative before the District's approval shall issue.

The District shall adopt such other, further restrictions and requirements for the use of the public sewers as in its judgment are wise and prudent for the system. The District shall also adopt such requirements and restrictions on the use of the public water supply system as it shall deem wise and prudent. All such restrictions and requirements shall be included within the District's administrative code when adopted.

#### **16.09.060 Preliminary Treatment Facilities: Maintenance**

Where preliminary treatment facilities are provided for any waters or wastes, they shall

be maintained continuously in satisfactory and effective operation by the owner at his expense.

#### **16.09.070 Industrial Wastes: Control Manhole**

When required by the manager, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the manager. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

#### **16.09.080 Tests of Wastes: Location of Sampling**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in section 16.09.020 and 16.09.050 shall be determined in accordance with "Standard Methods for the Examination of Water and Wastewater," and shall be determined at the control manhole provided for in section 16.09.070, or from suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

#### **16.09.090 Special Agreements**

Nothing in this chapter shall be construed as preventing any special agreement or arrangement between the District and the manufacturer of any industrial waste whereby industrial waste of unusual strength or character may be accepted by the District for treatment, subject to payment therefore by the manufacturer.

### **Chapter 16.10 Protection From Damage**

#### **16.10.010 Entry on Property**

The manager and other duly authorized employees or representatives of the District bearing proper credentials and identification shall be permitted to enter upon all properties

for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Ordinance. Any person who willfully obstructs or prevents a District employee or representative from entering or remaining upon property for a lawful purpose under this Ordinance shall be subject to a penalty in accordance with Section 16.13.040 of this Ordinance for each such incident and in addition to such penalty, shall be liable to the District in a civil action for all damages, costs, and attorney's fees suffered by the District as a result of the obstruction.

#### **16.10.020 Meters**

All meters for the measurement of water supplied or sewage flows shall be installed in accordance with the requirements of the District in such locations as the manager shall direct. All such meters shall be the property of the District and shall be maintained by it. All meters shall remain accessible to District personnel and no person shall obstruct or tamper with any meter. Such obstruction or tampering shall be a violation of this Ordinance and subject the violator to actual damages and civil penalties under Section 16.13.040 of this Ordinance. The owner of the property on which the meter is located shall be responsible for all damages for tampering with such meter.

#### **16.10.030 Obtaining Service without Authorization**

No person shall obtain water or sewer service from the District facilities without authorization. Any person who obtains such unauthorized service by connecting to the District facilities without authorization or by bypassing or tampering with any meter shall be liable to the District for three times the value of the actual service obtained in addition to the costs of correction.

#### **16.10.040 Manager: Responsibilities and Limitations**

The manager shall be the administrator of the District and all instructions and decisions made by him shall be final, but appeals from such instructions or decisions may be made to the Board in writing at any regular meeting of the Board. Where this Ordinance requires

approval by, permission or decision of, or instruction from the manager, the manager shall be guided solely by generally recognized engineering standards and practices, the operational demands and requirements of the sewer works and the peculiarities of construction, topography, soil condition or other relevant special factors affecting the specific decision to be made by the manager.

### **Chapter 16.11 Side Sewer or Water Line Contractors**

#### **16.11.010 Side Sewer or Water Line Contractor License Required**

For the purpose of assuring safe and quality construction of building sewer and water lines, safe and quality connection of building sewers and water lines to the public sewers and water lines of the District, and affording satisfactory protection to the sewer or water line users of the District, no person, other than the owner of the property involved, may construct, install, repair, reconstruct, excavate or connect to the public sewers or water lines of the District any building sewer or water lines, unless he is a side sewer or water line contractor holding a valid license of the District.

#### **16.11.020 License: Standards and Application**

Side sewer or water line contractor licenses shall be issued by the Board based on information contained on application and obtained from other reliable sources relating to the experience, ability to perform the necessary work and reputation of the applicant to his satisfying the requirements of this Ordinance. All applicants for the license shall complete an application furnished by the District which shall require the applicant to furnish information relating to his experience, ability to perform building sewer or water line work and personal, financial, and previous work references. The application may be in the form of a contract whereby the applicant shall agree to abide by the building sewer and side sewer or water line contractor requirements of this Ordinance.

#### **16.11.030 Side Sewer or Water Line Contractors: Bond, Insurance**

Every applicant for a license must, prior to the

issuance of the license to him, deposit with the District

(a) a surety bond in favor of the District in the amount of \$5,000.00 with a surety or sureties thereon approved by the Board and conditioned that he will perform the obligations of the application contract (if the application is in contract form) and the resolutions and requirements of the District relating to building sewers and side sewer or water line contractors, and

(b) satisfactory proof that the applicant currently carries the following insurance coverage:

(1) public liability insurance in an amount not less than \$50,000.00 for injuries and accidental death to any one person, and an amount not less than \$100,000.00 for any one accident; and

(2) property damage and fire insurance in an amount not less than \$25,000.00.

As long as a side sewer or water line contractor has a license, he shall maintain such bond and insurance, and such additional limits as may be required from time to time, and shall furnish proof thereof to the District whenever required by the manager or Board.

#### **16.11.040 Side Sewer or Water Line Contractors: Responsibilities**

Every licensed side sewer or water line contractor shall

(a) post a valid building sewer or water line permit at the site of the work prior to commencing the work relating thereto.

(b) contract for work using only the standard form of side sewer or water line contract approved by the Board or the manager, executed in duplicate or more copies, which shall provide

(1) a clear description, including sketch, of the work to be performed and the materials to be used; and

(2) that workmanship and materials shall

be guaranteed for a period of one year after installation and acceptance thereof.

(c) adhere at all times to the then current requirements of the District for building sewers and side sewer contractors, including such reasonable requirements of the manager relating to construction, installation, reconstruction and repair.

#### **16.11.050 License: Revocation, Suspension**

The license of a side sewer or water line contractor may be revoked by the Board or temporarily suspended by the manager until the next meeting of the Board for any one of the following causes:

(a) Fraud or misrepresentation in applying for or maintaining the license.

(b) Failure to observe the rules and regulations of the District relating to building sewers and side sewer or water line contractors.

(c) Failure to pay for labor or materials used in the construction of building sewers or water lines.

(d) Fraud or misrepresentation to the owner, occupant or agent or representative thereof for the purpose of obtaining a contract for the construction of a building sewer or water line, or during the course of work done pursuant to such a contract, and including the failure to adhere to the standard side sewer or water line contract.

(e) Failure to correct work or pay any default covered by the guaranty in the standard side sewer or water line contract.

(f) Failure to pay for work performed by the manager or district, or caused to be performed thereby, for which the contractor may be liable.

(g) Failure to maintain or when requested, prove the maintenance of the surety bond and insurance required to be maintained by Section 16.11.030.

Prior to the meeting of the Board at which



suspension or revocation of a license will be taken, the contractor shall be notified and shall be afforded an opportunity to be heard by the Board at that meeting. If the license is revoked, or suspended, the contractor must forthwith cease any building sewer or water line construction work being performed by him within the District.

#### **16.11.060 License: Renewal**

The side sewer or water line contractor's license may be renewed annually by application as aforesaid and satisfaction of the requirements of this code.

### **Chapter 16.12 Utility Local Improvement District**

#### **16.12.010 Local District Authorized**

(a) The Board shall have the power to establish utility local improvement districts within its territory, and to levy special assessments under a mode of annual installments extending over a period not to exceed twenty years on all property specially benefited by any local improvement on the basis of the special benefits to pay in whole or in part the damages or costs of any improvements ordered in the District. The procedures for the levying, collection and enforcement of all public assessments shall be in the manner now and hereafter provided by the laws of the State of Washington for the levying, collection, and enforcement of local improvement districts by cities of the first class, insofar as this procedure shall not be inconsistent with the provisions of this Ordinance; provided, however, that in addition to a lien against the property benefiting from any improvement, the costs of such improvement, together with interest and penalties, shall be a joint and several personal obligation of the landowner or owners. The duties of the city treasurer under such law shall be imposed upon the District treasurer. The mode of assessment shall be determined by the Board by resolution. Assessments in any utility local improvement district may be made on the basis of special benefits up to but not in excess of the total of any comprehensive scheme or plan payable by the issuance of revenue bonds. No warrants or bonds shall be issued in any such utility local

improvement district, but the collection of principal and interest on all assessments in such utility local improvement district shall, when collected, be paid into the revenue bond fund of the District.

(b) Prior to initiating the formation of any utility local improvement district, the Board shall present its preliminary plans to the Council for such a District. No further action shall be taken by the Board unless the Council shall approve the formation of the utility local improvement district.

#### **16.12.020 Resolution to Form Local District-Procedure-Written Protest**

Utility local improvement districts to carry out all or any portion of the comprehensive plan, or additions, and betterments thereof adopted for the sewer district may be initiated by resolution of the Board.

In case the Board shall desire to initiate the formation of a utility local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvements, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed utility local improvement districts, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed local district, which date shall, unless there is an emergency, be no less than thirty (30) days and no more than ninety (90) days from the date the resolution of intention was adopted.

Notice of the adoption of the resolution of intention shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen (15) days prior to the date fixed by such resolution for hearing before the Board. Notice of the adoption of the resolution of intention shall also be given each owner or reputed owner of any lot, tract, parcel of land or other property within the proposed

improvement district by mailing said notice at least fifteen (15) days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon or by the records of the Bureau of Indian Affairs. Whenever such notices are mailed, the Board shall maintain a list of such reputed property owners which lists shall be kept on file at a location within the District and shall be made available for public perusal. The notices shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also

(a) state that all persons desiring to object to the formation of the Board may do so before the time fixed for said public hearing;

(b) state that if owners of at least forty percent (40%) of the area of land within the proposed district file written protests with the secretary of the Board, the power of the Board to proceed with the creation of the proposed district shall be divested;

(c) provide the name and address of the secretary of the Board; and

(d) state the hours and location within the sewer district where the names of the property owners within the proposed district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated cost and expense of such improvement to be borne by the particular lot, tract, parcel of land or other property.

**16.12.030 Improvement Ordered-Divestment of Power to Order-Assessment Roll**

(a) The Board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing the Board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in plans for proposed improvement as shall be deemed necessary; provided, that the Board may not change the boundaries of the district to include

property not previously included therein, unless requested to do so by the owners of the property to be included, without first passing a new resolution of intention and giving a new notice to affected property owners in the manner and form and within the time herein provided for in the original notice.

(b) After said hearing the Board shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution; provided, that the jurisdiction of the Board to proceed with any improvement initiated by resolution shall be divested

(1) by protests filed with the secretary of the Board prior to said public hearing signed by the owners, according to the records of the County Auditor or of the Bureau of Indian Affairs of at least forty percent (40%) of the area of land within the proposed local district; or

(2) by the Board not adopting a resolution ordering the improvement at a public hearing held not more than ninety (90) days from the day the resolution of intention was adopted.

(c) If the Board finds that the district should be formed, it shall by resolution order the improvement, provide the general funds of the district to be applied thereto, adopt detailed plans of the utility local improvement district and declare the estimated cost thereof, acquire all necessary land therefore and pay all damages caused thereby. The Board shall proceed with the work and file with the Tribal treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within the local improvement district in proportion to the special benefits to be derived by the property therein from the improvement.

**16.12.040 Notice of Filing Roll**

Before the approval of the roll a notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the local district, stating that the roll is on file and open to inspection in the office of the secretary, and fixing the time, not less than

fifteen (15) or more than thirty (30) days from the date of the first publication of the notice, within which the protest must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing will be held by the commission on the protests. The notice shall also be given by mailing at least fifteen (15) days before a hearing, a similar notice to the owners or reputed owners of the land in the local district as they appear on the books of the Treasurer of Whatcom County or the Bureau of Indian Affairs.

#### **16.12.050 Hearing on Protests-Order**

At such hearing of a protest to an assessment, or any adjournment thereof, the Board shall have the power to correct, revise, raise, lower, change, or modify such roll, or any part thereof, and to set aside such roll, and order that such assessment be made de novo, as to such body shall appear equitable and just and may then by resolution approve the same. In the event of any assessment being raised, a new notice similar to such first notice shall be given, after which final approval of such roll may be made by the Board. Whenever any property shall have been entered originally upon such roll and the assessment upon any such property shall not be raised, no objection thereto shall be considered by the Board or any court on appeal unless such objection be made in writing at or prior to the date fixed for the original hearing upon such roll.

#### **16.12.060 Enlarged Local District May be Formed**

In the event that any portion of the system after its installation in such utility local improvement district is not adequate for the purpose for which it was intended, or that for any reason changes, alterations or betterments are necessary in any portion of the system after its installation, then such district, with boundaries which may include one or more existing utility local improvement districts, may be created in the District in the same manner as is provided herein for the creation of utility local improvement districts. Upon the organization of such utility local improvement district as provided for in this section, the plan of improvement and the payment of the cost of the improvement shall be carried out and the paying for the

improvement in the utility local improvement districts previously provided for in this Ordinance.

#### **16.12.070 Conclusiveness of Roll When Approved**

Whenever any assessment roll for local improvements has been confirmed by the Board as herein provided, the regularity, validity and correctness of the proceedings relating to such improvement, and to the assessment therefore, including the action of the Board upon such assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties, and cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objections to such roll in the manner and within the time provided in this title. No proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment, or the sale of any property to pay such assessment, or any certificate of delinquency issued therefore, or the foreclosure of any lien issued therefore; provided, that this section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds

(a) that the property about to be sold does not appear upon the assessment roll; or

(b) that said assessment has been paid.

#### **16.12.080 Segregation of Special Assessment-Fees**

Whenever any land against which there has been levied any special assessment under this Ordinance shall have been sold in part or subdivided, the Board shall have the power to order a segregation of the assessment. Any person desiring to have such special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the Board for such segregation. If the Board shall in its discretion determine that such segregation shall be made, they shall by resolution instruct the Tribal treasurer to make segregation on the original assessment roll as directed in the resolution. The segregation shall as nearly as possible be made on the same basis as the original assessment was

levied and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment and shall define the boundaries of the divided parts and the amount of assessment chargeable to each part.

A certified copy of the resolution shall be delivered to the Tribal treasurer, who shall proceed to make the segregation upon receipt of a fee of twenty-five dollars (\$25.00) for each tract of land into which the segregation is to be made. In addition to such charge, the Board may require as a condition of the order of segregation that the person seeking the same pay the District reasonable engineering, clerical, and legal costs incident to making the segregation.

### **Chapter 16.13 Violations of Ordinance**

#### **16.13.010 Liability to District**

Any person who shall violate any provision of this Ordinance shall be liable to the District for any expense, loss, damage, cost of inspection, or cost of correction incurred by the District by reason of such violation, including any expenses incurred by the District in collecting from such person any such loss, expenses, cost of inspection or cost of correction.

#### **16.13.020 Notice of Violation**

Any person found to be violating any provision of this Ordinance shall be served by the District with or mailed written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations and make all necessary corrections.

#### **16.13.030 Costs of Correction**

The District shall be empowered to order the correction of any violation of this Ordinance and charge the costs of this correction, including a fee of the lesser of one hundred dollars (\$100.00) and ten percent (10%) of the actual costs of correction, to the owner of the property upon which the violation occurs. Such order for correction shall be made by resolution of the Board, provided that the

manager may order such correction when, in his opinion, the health, safety or welfare of Reservation residents is threatened with immediate harm. The order of the manager may be appealed to the Board. The Board shall make orders for corrections by resolution of the Board. The order of the Board may be stayed by application to the Lummi Tribal Court for a stay and by the contemporaneous filing of the bond indemnifying the Board as obligee in twice the estimate cost of the correction.

#### **16.13.040 Civil Penalty**

Any person who continues to violate this ordinance beyond the time limit for correction specified in the notice served pursuant to 16.13.020 shall be liable for a civil penalty of not less than one hundred dollars (\$100.00) per day for each such day after the expiration of the time limit found in the notice. This penalty shall be assessed by the Lummi Tribal Court upon the filing of a complaint by the Board, and the proceeds of the civil penalty, less the costs of the filing and other court costs, shall be placed in the general fund of the District.

#### **16.13.050 Initial Connections**

The service of a Notice to Connect upon an owner, whether for connection to the system prior to its initial operation or connection to the system at a later time, shall be deemed a notice of violation of the Ordinance under Section 16.13.020 hereof.

### **Chapter 16.14 Judicial Review**

#### **16.14.010 Initial Resolution of Disputes**

Any disputes regarding the right to use the sewer or water system, refusal or failure to provide service, operational problems affecting service, and other service related issues shall be resolved according to this Chapter. Any person aggrieved by an order or decision of the Sewer or Water Board relating to any of these areas shall first petition the Sewer or Water Board for a hearing. This petition shall be in writing, although this requirement may be waived by the Sewer or Water Board. The hearing shall be on the record and the Sewer or Water Board shall cause a verbatim record of the hearing to be



kept and transcribed. The Sewer or Water Board shall issue a written decision which shall become a part of the written record and shall be open for inspection at the offices of the District during regular working hours.

#### **16.14.020 Lummi Indian Business Council Review**

The decision of the Sewer or Water Board shall be reviewable by the Lummi Indian Business Council. Any person who desires any review of the Sewer or Water Board Decision shall petition the Lummi Indian Business Council for such review within ten (10) working days of the date of the Sewer or Water Board Decision. The review power of the Lummi Indian Business Council shall be limited to ascertaining whether a fair hearing upon the dispute was held. The Lummi Indian Business Council shall take up the review within thirty (30) calendar days of the date of the receipt of the petition for review. Failure of the Lummi Indian Business Council to act within this period shall be deemed to be an affirmation of the Sewer or Water Board Decision.

#### **16.14.030 Judicial Review**

Any party dissatisfied with the decision of the Lummi Indian Business Council may petition the Lummi Tribal Court for judicial review of the decision. For the purposes of this review the Lummi Indian Business Council agrees not to raise as a defense to the appeal any immunity from this type of action which it or the Lummi Nation may possess in the Lummi Tribal Court. This petition for review shall be filed within ten (10) working days of the date of the decision of the Lummi Indian Business Council, or within forty (40) calendar days of the date of the petition for review to the Lummi Indian Business Council. The Tribal Court shall conduct a review upon the written record, and shall permit time for each party to present oral argument in support of his position. The standard used in this review shall be whether there was substantial evidence in the record to support the decision of the Sewer or Water Board. The Tribal Court shall issue a written decision.

#### **16.14.040 Arbitration**

Any party to a dispute dissatisfied with the

decision of the Lummi Tribal Court may invoke arbitration under the rules and auspices of the American Arbitration Association. The arbitrator shall conduct a de novo review upon the written record before the Tribal Court and shall issue a written decision. For the purpose of this arbitration, the Lummi Indian Business Council agrees not to assert any immunity from arbitration, provided that this agreement shall be strictly construed and shall not be considered or construed as an agreement not to assert any such immunity in any action brought or maintained in the courts of the State of Washington.

#### **16.14.050 Costs**

As a condition of appealing or petitioning in any of the above steps, the party wishing to file the appeal or petition shall first pay all costs of the previous step from which the appeal or petition is sought. Costs shall include, but not be limited to, the preparation of the written transcript of each hearing or meeting, reasonable filing fees, and other costs, provided that these costs shall not include attorney's or spokesman's fees for any of the above stages of proceeding.

#### **16.14.060 Minor Disputes**

Operational problems or complaints of a minor nature may, at the option of the complaining party, be resolved informally through contact with the manager or staff of the Water or Sewer Board. The use or nonuse of these informal proceedings shall not affect a complaining party's right to pursue the appeal right set out in this Chapter.

#### **16.14.070 Other Appeals**

Any other decisions of the Sewer or Water Board, including rate setting and class of service decisions, may be reviewed by the Lummi Indian Business Council pursuant to the Constitution and By-Laws of the Lummi Nation, Article VI, Section 1 (p). Any such decision of the Sewer or Water Board or of the Lummi Indian Business Council may be reviewed in the Lummi Tribal Court by filing an appeal therein within ten (10) working days of the date at which the decision of the Sewer and Water Board or of the Lummi Indian Business Council was taken. The procedures and rules of the Tribal Court governing civil

actions shall be applicable to such an appeal, and the decision of the Tribal Court shall be final.

## **Chapter 16.15 Miscellaneous**

### **16.15.010 Notices, Billings**

Any person who has the care, custody, control or management of any premises or building, or who has control of the operation thereof or the collection of rentals therefrom, shall, for the purpose of this Ordinance, be deemed to be the agent of the owner of such premises or building, and the giving of all notices herein provided to that agent shall be deemed due notice to the owner. The mailing or delivery of bills for sewer service charges, permit fees, connection or trunkage charges, or other charges to that agent shall be deemed mailing or delivery to the owner.

### **16.15.020 Validity: Severability**

The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any part of this Ordinance which can be given effect without such invalid part or parts.

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